

Appeal Decision

Site visit made on 19 September 2024

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 November 2024

Appeal Ref: APP/C1625/W/24/3338228

**Land adjacent to Hatton Court Hotel, Upton Hill, Upton St Leonards
GL4 8DE**

- 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 Dr Martin Wyatt against the decision of Stroud District Council.
 - The application Ref is S.23/1409/FUL.
 - The development proposed is erection of single dwelling, ancillary garage and store, associated vehicular access and landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In November 2023 all designated Areas of Outstanding Natural Beauty (AONBs) in England became National Landscapes and I have therefore replaced references to AONBs with National Landscapes (NL).
3. The appellant has made reference to a 3D model produced in support of the planning application. This model was available to view at the time of my site visit. However, it has not been considered by the Council at application stage. In the interests of fairness, I must ensure that what is considered at appeal is what was considered by the Council and therefore I have not taken this model into account.

Main Issues

4. The main issues are:
 - Whether the site is an appropriate location for new housing having regard to local and national planning policies;
 - Whether the site is an appropriate location for new housing having regard to the accessibility to services and facilities;
 - The effect of the proposed development upon the character and appearance of the area including the Cotswold NL;
 - The effect on highway safety;

- The effect upon the vitality and viability of the Hatton Court Hotel;
- The effect on protected species; and
- The effect of the proposal upon the Cotswold Beechwoods Special Area of Conservation (SAC).

Reasons

Appropriate location

5. Policies CP2 and CP3 of the Stroud District Local Plan (2015) (LP) set out the spatial strategy for new development in the district. The policies seek to direct new development within the development limits of settlements with services and facilities so as to reduce the need to travel and to promote sustainable communities.
6. LP Policy CP15 sets out that permission for development in the countryside, outside the identified settlement development limits, will not be permitted save for a number of exceptions. The policy does not support the provision of open market housing in countryside locations.
7. The appeal site neighbours the Hatton Court Hotel and established residential development. That said, the site is not located within an identified settlement and therefore is located within open countryside. The proposal would not meet any one of the exceptions that permit development in the countryside.
8. As the development would be located beyond the development limits of an identified settlement it would not be an appropriate location for new housing. It would, therefore, be contrary to LP Policies CP1, CP2, CP3 and CP15.

Accessibility to services and facilities

9. The site is located within open countryside and the nearest settlement containing day-to-day services is Upton St Leonards located to the north. Whilst the site lies approximately 800m from the fringe of the settlement, it is evident that day-to-day services and facilities reasonably necessary are located further into Upton St Leonards and further away from the site.
10. I note the presence of a footpath approximately 120m to the north leading into the settlement but getting to it involves walking along a fast-moving country road for a short distance with no lighting or refuge making this option undesirable and would be especially difficult for the young and the elderly and those with mobility issues.
11. As such, given the lack of a continuous footpath, intermittent streetlighting in combination with the overall distance to day-to-day services and facilities means the walking route into Upton St Leonards would be undesirable and impractical particularly so during the hours of darkness and inclement weather.
12. The appellant highlights the proximity of bus stops which provide services to Gloucester and Painswick. However, I have not been provided with any substantive information on the timings and frequency of the services and

therefore based on the evidence before me I am not satisfied that the bus services would represent a convenient alternative transport option.

13. In these circumstances the use of private motor vehicles is the only practical means for future residents to access the day-to-day services they require. This combination of factors demonstrates that the site is not a location where a new dwelling would be considered acceptable having regard to the accessibility to services and facilities.
14. The proposed development would be located within open countryside with poor access to services and facilities. Accordingly, the proposed development would be contrary to LP Policies CP2, CP3, CP13, CP14 (14) and CP15 which, amongst other things, seek to direct new development to appropriate locations to reduce the need to travel; proposals to be located near to essential services and goods and provide convenient choices in the mode of transport and alternatives to the car.

Character and appearance including the effect upon the Cotswold NL

15. The appeal site is formed of an undulating parcel of land located between the Hatton Court Hotel and a cluster of established residential development. The immediate context appears to have developed in an ad-hoc manner with informally arranged individually designed houses sitting in plots that vary in terms of size and shape. The separation between the built form and the distance that dwellings are positioned from the roadside varies considerably along Upton Hill. A Public Right of Way extends across part of the site affording views of the site and the local landscape.
16. Whilst the site is in part influenced by neighbouring built form it is read as forming part of the wider countryside and the Cotswold Escarpment. Its open and verdant character combined with the sporadic nature of the built form along Upton Hill contribute to the verdant and rural character of the area.
17. NL is a statutory national landscape designation and local authorities have a duty to have regard to the purpose of conserving and enhancing their natural beauty. Paragraph 182 of the National Planning Policy Framework (the Framework) sets out that great weight should be given to conserving and enhancing landscape and scenic beauty in NL, which have the highest status of protection in relation to these issues. It goes on to state that the scale and extent of development within such designated areas should be limited. Whilst the field does not in itself appear to be unique or distinctive nonetheless its verdant and undeveloped nature contributes to the natural beauty of the Cotswold NL
18. Paragraph 84 of the Framework states that planning policies should avoid the development of isolated homes in the countryside unless one or more specific circumstances apply. In this regard, it is appropriate to consider whether the circumstances under paragraph 84 e) of the Framework apply in this instance in that the design is of exceptional quality that is truly outstanding, reflecting the highest standards in architecture that would help raise the standards of design more generally in rural areas and would significantly enhance its immediate setting and be sensitive to the defining characteristics of the local area.

19. I acknowledge that the dwelling aims to take advantage of the site topographies and is intended to be simple but powerful articulated by the Cotswold stone wall and cantilevered gable. However, in terms of its appearance the building, with the exception of the elongated stone wall, is not unlike other contemporary buildings and whilst it is claimed that local materials would be used in the construction and that it would be exemplar for sensitivity and understanding of local flora and fauna, there is no substantive evidence to support this. Moreover, it is not clear how the form, massing and appearance of the building, including the use of oak and zinc cladding and a sedum roof, is sensitive to locally defining characteristics. Accordingly, whilst the building is not poorly designed, I am not convinced that it is truly outstanding.
20. Whilst the dwelling is intended to be constructed to Passivhaus standards and low carbon there is nothing especially innovative about the technologies proposed. Many modern developments strive to be energy efficient. The proposal has not been peer reviewed or subject to scrutiny by a design review panel and there is nothing before me to indicate that it would raise the standards of design in the rural area.
21. Taking all these considerations into account, the proposal does not meet the high bar set by paragraph 84 e).
22. I acknowledge that the proposed development would follow the dispersed and linear pattern along Upton Hill. However, the proposed development would introduce a large dwelling and courtyard structure into an otherwise undeveloped field. The appeal scheme would introduce a modern, urbanising form of development into an open setting increasing the effect of the built form on the surrounding landscape. The rural character of the area would be significantly diminished by the development, associated infrastructure and domestic paraphernalia spread over a considerable area of the site. Whilst the appellant has suggested a condition demarking a smaller domestic curtilage could be imposed, there is nothing before me to indicate what form this would take and thus, I am not satisfied that this would overcome the harm that I have identified. Furthermore, there is also no certainty that domestic paraphernalia would be contained in the courtyard or main dwelling.
23. In terms of landscaping, it would take some time for the planting to reach sufficient maturity to camouflage the building. Furthermore, there is no substantive evidence to indicate that it would remain for the lifetime of the development such that they would continue to screen it. A condition requiring retention of trees and vegetation to screen the site would be difficult to enforce thus there is no certainty that it would mitigate the harm identified.
24. Having regard to the appellant's Landscape and Visual Assessment it is evident that the proposed development would be most evident in localised views from Upton Hill, the public footpath that extends across part of the site and from Hatton Court Hotel.
25. The experience for those walking along the public footpath would evidently change through the introduction of built form, however, a dwelling in this location would not come as a complete surprise to users given this section of

the footpath is in part influenced by the presence of dwellings and structures. Moreover, once beyond the site the built form of Gloucester and the visual and audible presence of the M5 motorway are notable features of the wider landscape.

26. Views over the site would be afforded from windows in the hotel, however, given the transient nature of its patrons they would not experience the dwelling for any notable period of time. As such, in this regard the visual impression would be limited.
27. When traveling along the road given the position of the dwelling and courtyard set back into the site the proposal would not be prominent from the roadside and views would be glimpsed, filtered by boundary vegetation, despite the introduction of a new vehicular access.
28. Accordingly, whilst I find that the visual impact of the proposed development would be localised, I find the introduction of built form into an unspoilt and verdant landscape would result in the unacceptable erosion of open countryside adversely affecting the character of the area and undermining the natural beauty of the NL.
29. The proposal is therefore contrary to LP Policies CP14, ES7 and ES12 and paragraphs 84 and 182 of the Framework which, amongst other things, seek high quality development, which protects, conserves and enhances the built and natural environment and the special features and diversity of NL landscape character.
30. I note the council have referred to Policy ES13 in reason for refusal 4, however, as it relates to the protection of open space within settlements, I find that with specific regard to this appeal I give it negligible weight in coming to my decision.

Highway safety

31. The proposed development would be served by a new footway crossing onto Upton Hill, which is subject to a 40mph speed limit.
32. The appellant's evidence indicates that visibility splays of 2.4m x 58.8m to the north and 2.4m x 71.6m can be achieved. The Council advise that given the speed of the road a visibility splay of 2.4m x 82m is required in both directions.
33. As such, based on the evidence before me the proposed development would not achieve adequate visibility for occupiers when leaving the site by car. The lack of visibility would increase the potential for collisions with oncoming traffic resulting in an unacceptable impact upon highway safety.
34. I conclude that the proposed development would have an unacceptable impact upon the safe operation of the adjoining highway contrary to LP Policy CP13 and the Framework which, amongst other things, require developments not to cause or contribute to significant highway problems.

Vitality and viability of the Hatton Court Hotel

35. The Hatton Court Hotel includes a number of facilities including a bar and restaurant and it is also a wedding venue. Based on the evidence before me

part of the appeal site was being used occasionally by the hotel for overflow car parking. The appellant indicates that this arrangement was renewed annually but ceased in March this year.

36. I did not see much to suggest that the site was still being used for parking during my site visit and considering the topography of the site it is apparent that this was limited to a small area providing spaces for just a few vehicles.
37. In my judgement it is somewhat of a long shot to suggest that the vitality and viability of the hotel would be compromised by the proposed development and inability to use part of the appeal site for parking when taking the above into account, despite the absence of an assessment.
38. As such, I find that the loss of the overflow parking area would not unduly affect the vitality and viability of the Hatton Court Hotel and would accord with LP Policy EI3 which, amongst other things, seeks to protect small rural employment sites from housing development.

The effect on protected species

39. The appellant's Preliminary Ecology Appraisal (PEA) indicates that the site is located within a red risk zone for Great Crested Newts. From the evidence before me there is the possible presence of protected species in the area on account of highly suitable habitat.
40. The appellant is willing to undertake additional survey work post-decision or apply for a district newt license. However, the Council's Biodiversity Team indicate that the license would have to be granted prior to any planning permission being granted.
41. Circular 06/2005: Biodiversity and Geological Conservation – statutory obligations and their impact within the planning system, states it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. In this case I see no reason to depart from the guidance set out in the circular and the advice of the Council's Biodiversity Team.
42. The potential for Great Crested Newts and other protected species on site carries statutory duties and is a matter of considerable weight particularly given its immediate setting. I am not satisfied that this matter has been investigated to demonstrate that there would be no harm to protected species.
43. Therefore, the proposal would be contrary to LP Policies ES6 and CP14(8) which, amongst other things, seek to conserve and enhance the natural environment including protected species.

Effect on the Cotswold Beechwoods SAC

44. The site lies within 15.4km of the Cotswold Beechwoods SAC. The proposed development would likely result in recreational visits to the habitat site and potential damage to the habitat. As such, it is necessary for me, as the competent authority for the purposes of the Conservation of Habitats and

Species Regulations 2017 (as amended) (the Act) to conduct an Appropriate Assessment in relation to the effect of the development on the integrity of the SAC.

45. It is likely that the proposed development would contribute to further recreational pressures and disturbance. The proposal would either alone or in combination with other residential development in the area, likely have a significant effect on the SAC due to the increased recreational pressure that would be placed on it. Mitigation is therefore required to ensure that such pressure is avoided or limited to such a degree that it would preserve the integrity of the SAC.
46. Given my statutory responsibilities under the Act and taking a precautionary approach, I find that the absence of any assessment of the likely impact and without a financial contribution towards the Council's mitigation scheme, secured by way of a legal agreement, results in the scheme having a significant adverse effect on the integrity of the SAC.
47. As such the proposed development would conflict with LP Policy ES6 which, amongst other things, seeks to safeguard and protect all sites of European and global importance.

Other Matters

48. The appellant has made reference to a number of developments in the area outside of the boundary of nearby settlements, however, based on the limited information submitted I am not satisfied that they are comparable to the appeal scheme before me. In any event every application and appeal must be considered on its own individual merits, as I have done. Therefore, the examples do not lead me to reach a different conclusion in respect of the location of the proposed development.

Conclusion

49. For the reasons set out above the appeal does not succeed.

B Thandi

INSPECTOR