



Appeal Decision

Site visit made on 27 November 2024

by R Kent BA (Hons) MTP DipM MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 January 2025

Appeal Ref: APP/G1630/W/24/3348852

Adderstone House, Spring Lane, Cleeve Hill, Cheltenham, Gloucestershire GL52 3PY

- 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 Mark Robins against the decision of Tewkesbury Borough Council.
 - The application Ref is 23/00523/FUL.
 - The development proposed is Provision of new low energy infill dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council's Statement of Case has amended the fifth reason for refusal to state that the applicant had "provided insufficient information" to assess the potential impact of the development on the existing trees. I have determined the appeal on the basis of this amended wording.
3. Whilst the effect on the Cotswolds National Landscape did not form one of the Council's reasons for refusal, I have a statutory duty to have regard to the purpose of conserving and enhancing its natural beauty. This is also reflected in Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2017 (the CS) policy SD7 and Tewkesbury Borough Local Plan 2022 (the TBLP) policy LAN2 referred to in the Council's Delegated Report. The parties have had the opportunity to comment on the application of the duty and I have determined the appeal on this basis.
4. Whilst the evidence refers to the National Planning Policy Framework (the Framework), a revised Framework was published in December 2024. I have had regard to the revised Framework in my decision.

Main Issues

5. The main issues are:
 - Whether the proposed dwelling would be in a suitable location having regard to the spatial strategy in the development plan for the distribution of housing;
 - The effect of the development on the character and appearance of the site and its surroundings with particular reference to its location in the Cotswolds National Landscape;

- The suitability of the proposed access arrangements having regard to the safety of users of Spring Lane; and
- The effect of the proposals on the protected horse chestnut tree.

Reasons

Location

6. The strategic approach for the distribution of new residential development is set out in CS policy SP2. This seeks to guide new housing development to sustainable and accessible locations focussing new development in and around the existing urban areas of Cheltenham and Gloucester. The policy allows for some lower levels of development to be accommodated at defined rural service centres and service villages. The appeal site does not fall within any of the settlements identified as such and therefore falls to be considered against CS policy SD10. The policy indicates that housing development on sites falling outside part 3 of the policy, such as the appeal site, will only be permitted where it meets one of four specified criteria. Criterion ii allows for infilling within "villages" except where otherwise restricted by other policies in the plan.
7. Whilst the appeal site lies within a loose group of houses, that group does not have the look or feel of a "village." With the exception of the Rising Sun public house, there are no significant services or facilities which might ordinarily be associated with a village. Reference is made to various facilities and businesses in the vicinity. Whilst the evidence does not include full details of their locations, from my site visit I saw that the Cleeve Hill Golf Club house is located to the north east of Stockwell Lane with an hotel and bed and breakfast close to Post Office Lane. They are therefore quite separate from the appeal site and closer to the larger cluster of houses around Post Office Lane and Stockwell Lane.
8. Policies RES3 and RES4 of the TBLP set out the approach to new housing outside settlement boundaries. Policy RES4 indicates that very small scale residential development will be acceptable in principle within and adjacent to the built up area of other rural settlements. The built up area of the settlement is defined in the Reasoned Justification to the policy as excluding "individual buildings or groups of dispersed buildings which are clearly detached from the continuous built up area of the settlement."
9. The more built up part of Cleeve Hill around Post Office Lane and Stockwell Lane, when combined with the facilities referred to above, has the character and appearance of a 'settlement' or small village. I note that the Inspectors in the previous appeal decisions for other sites in Cleeve Hill at Mountross¹, Thrift House² and Land off B4632³ all arrived at a similar conclusion. The appeal site and the small group of houses around it are separated from it by fields and a stretch of the B4632 and appear visually and physically distinct from it. Whilst the site lies behind a linear group of dwellings running south along the B4632 from Rising Sun Lane, the gap between the pub and Post Office Lane means that the group does not appear as part of the continuous built up area of the settlement around Post Office Lane and Stockwell Lane or lie adjacent to it.

¹ APP/G1630/W/23/3322288

² APP/G1630/W/20/3257703

³ APP/G1630/W/20/3247018

The cluster of houses around Spring Lane is smaller than the settlement around Post Office Lane and Stockwell Lane and is not of sufficient size, or have the facilities and services, to constitute a separate settlement in its own right for the purposes of development plan policy.

10. Reference has been made to a 2017 appeal decision at Inglecroft, Post Office Lane⁴. That decision pre-dated the adoption of the CS and the TBLP. Whilst the Inspector considered that the site formed part of the settlement of Cleeve Hill, the current appeal site is not in the vicinity of that site. It is in a separate location and does not form part of that settlement. My attention has also been drawn to a letter in 1903 which described Cleeve Hill as a town. For the reasons I have given above, I do not agree with that description.
11. The site is not well located for access by foot to main services and facilities. There are bus stops on the B4632 close to the junction with Rising Sun Lane giving access to a bus service operating to locations such as Cheltenham and Winchcombe and the facilities they provide. However, I walked the route from the site to the bus stops and the slope on Rising Sun Lane, coupled with the lack of lighting and footways would make the route difficult for some users, especially after dark or in poor weather. Whilst the bus stops were sufficiently close to the site to provide other users with a sustainable transport option, they would not provide suitable access for all users. Overall, it is likely therefore that there would be reliance on the private car for future occupants needing access to services and employment.
12. Despite the hilly terrain, Rising Sun Lane and the B4632 would provide suitable access for cyclists to the services in nearby villages. The development would therefore accord with CS policy INF1 in so far as it relates to cycle access to the transport network.
13. Nevertheless, for the above reasons, the site would not be in a suitable location having regard to the spatial strategy in the development plan for the distribution of housing. It would therefore be in conflict with CS policies SP2 and SD10 regarding the distribution of new development; TBLP policies RES3 and RES4 which restrict new housing development outside settlement boundaries; and CS policy INF1 and TBLP policy TRAC1 in so far as they relate to pedestrian accessibility.

Character and appearance

14. The site is an area of garden situated between two existing houses within a scattered group of other dwellings of differing styles and plot sizes on the edge of Cleeve Common. A small watercourse runs along part of its northern boundary. There are a number of trees and hedgerows on the site and surrounding land which help the site blend with its wider rural setting.
15. The site rises eastwards towards the elevated land forming the Common which affords panoramic views of the surrounding countryside to the settlements beyond. Spring Lane, a roughly surfaced track, lies beyond the site's eastern boundary and contributes to the rural character of its surroundings. Overall, the character and appearance of the site and its surroundings is one of a loose collection of predominantly detached houses set in substantial grounds in a distinctly rural location.

⁴ APP/G1630/W/17/3175111

16. The proposed dwelling would sit between two existing houses within the surrounding group and designed as split level to respond to the sloping site levels. The form and scale of the building, together with the associated car parking and manoeuvring space, would however give the site a distinctly more developed appearance. Its angular footprint and steeply pitched roof would significantly reduce the space separating the existing houses which is part of the character of the site and its immediate surroundings. In order to accommodate the development, some of the existing vegetation, including two groups of Leyland Cypress and some branches of trees overhanging the site, would be removed. This would be a consequence of the development being tight to the northern and eastern site boundaries and would further reduce the verdant appearance of the site. Taken together these effects of the development would have a harmful effect on the rural character of the site and its immediate surroundings.
17. The position of the proposed dwelling between existing houses in conjunction with the lower site levels, retained boundary trees and vegetation would however limit the visual impact of the development on its wider surroundings. It would not be obtrusive in the views from the higher land to the east or from Spring Lane. As a consequence, the harm caused to the character and appearance of the site and its surroundings would be moderate.
18. With regards to the effect on the Cotswolds National Landscape, the site is on the edge of the 'LCT 2: Escarpment' and 'LCT 3: Rolling Hills and Valleys' Landscape Character types identified in the Cotswolds Landscape Character Assessment (LCA). A key feature identified in the LCA guidelines is that development is generally confined to lower shallower slopes with, amongst other things, linear settlements bordering roads on the lower slopes. Infilling is identified as a force for change with potential landscape implications including the loss of characteristic small scale settlements and hamlets due to settlement growth and coalescence.
19. The proposed development would be confined to the lower slopes and its visual impact on the National Landscape would be limited for the reasons given above. Nevertheless, although the proposals would include some landscaping of the site and the site is a small and contained part of the landscape, the harm caused to the character of the site and its surroundings would not enhance the natural beauty of the National Landscape. As such it would conflict with the Framework's policy to enhance valued landscapes.
20. Although the design of the proposed house differs from the neighbouring properties, there is a varied mix of house styles and materials in the vicinity including some contemporary designs. The materials used in nearby development include render, stone and timber finishes with a similar variety of roof materials. As a result, the proposed use of Cotswold stone, slate roof and timber wall cladding, would be compatible with the nearby houses and would not in itself harm the National Landscape.
21. Nevertheless, for the reasons given, the development would have a harmful effect on the character of the site and its surroundings and would not enhance the natural beauty of the Cotswolds National Landscape. This conflicts with CS policies SD4 and SD7 and TBLP policy LAN2 which require development to respect the character of the site and its landscape setting and where appropriate enhance it.

Access

22. Vehicular access is proposed from Spring Lane via an existing gateway. Spring Lane is a rough, unlit, single width track which leads to a parking and manoeuvring area before the narrow stretch leading to the site. It terminates a short distance to the south of the site where it becomes a rough path.
23. The site access is constrained on its southern side by the substantial trunk of a mature horse chestnut tree. The wall of the adjacent garage on the neighbouring property projects beyond the tree trunk to the edge of the lane restricting visibility to the southern direction. A timber fence lies adjacent to its northern side abutting a stone wall and hedge which runs northwards along the western edge of the lane. The fence and planting restrict visibility to the northern direction. A low retaining wall topped by timber fencing runs along part of the eastern side of the lane opposite the access.
24. Whilst the access is existing and the lane has very low levels of vehicle movement, the narrow width of the lane combined with the boundary walls and fences significantly restricts the space available to allow cars to turn into the site from the north. The trunk of the tree and the acute angle of the access further limits the space available.
25. The proposal is for a 3 bed dwelling which would be of sufficient size for family occupancy. From what I saw on my site visit, and based on the evidence before me, I am not satisfied that an average family sized vehicle would have sufficient turning space to enter or exit the site in a forward gear. Even though the evidence shows a vehicle parked in the access facing towards the lane, it does not demonstrate how it entered or exited the site. The narrow lane significantly restricts the ability to carry out manoeuvres safely and from the evidence before me the lack of space would be likely to necessitate vehicles having to reverse along part or all of the lane if they were unable to enter or exit in a single manoeuvre in forward gear. This would cause a hazard to walkers and horse riders using the lane due to the lack of space at either side of it to take refuge. As such the proposed access arrangements would cause significant harm and conflict with the Framework's policy to ensure safe and accessible access to development sites for all users.
26. Reference has been made by interested parties to existing access and parking problems in Spring Lane and the lack of capacity to meet the parking requirements of existing properties. The narrow nature of the lane together with the number of individual access points severely limits the space for parking along it without obstructing access to individual houses or to the lower part of the lane serving the site. Should vehicles be unable to access the site, from the evidence before me and from what I saw on my site visit, I am not satisfied that there would be satisfactory alternative parking spaces for residents of, or visitors to, the proposed dwelling.
27. Although the Highway Authority initially indicated it had no objection subject to conditions, those comments were subsequently superseded by a further letter in which it sought details to demonstrate how access could be achieved. The evidence also indicates that some of the land causing the narrowing of the drive falls outside the appellant's ownership. I have therefore considered whether further details could be secured by a planning condition if I were minded to allow the appeal. However, ensuring an appropriate and safe access is a fundamental part of the proposal and it would not be reasonable to grant

planning permission without the certainty that suitable vehicular access can be achieved. This is particularly the case if it were to require works on land that is not controlled by the appellant. Whilst the development would not be expected to generate significant numbers of vehicle movements, and therefore does not require a transport statement or assessment as indicated in the Framework, it is nevertheless important to demonstrate how appropriate vehicular access can be achieved for a 3 bedroom dwelling.

28. For the reasons given, on the basis of the evidence before me the proposals would not provide a suitably safe vehicular access to the site in conflict with CS policy INF1 in so far as it requires safe and efficient access to the highway and TBLP policy TRAC 9 which requires safe and accessible parking provision.

Protected horse chestnut tree

29. The horse chestnut tree adjacent to the site entrance is the subject of a Tree Preservation Order (TPO). There is an area of existing paving around the trunk of the tree. It is in good condition and prominent in views up and down Spring Lane contributing to the lane's rural character.
30. The proposals include an Arboricultural Survey, Impact Assessment and Protection Plan prepared by a qualified arboriculturist which addresses the impact of the proposals on the trees around the site. Whilst there is a risk that the construction works might sever roots of the horse chestnut, it is proposed that this risk can be addressed through an agreed method statement and tree protection plan.
31. The plan submitted with the survey indicates tree protection barriers around the trunk with a sequence of site operations to ensure that construction works do not result in damage to the tree. It is further suggested that construction machinery and materials would be brought on to site either by hand or through Adderstone. In the absence of clear evidence of any harm being caused to the protected tree as a consequence of these proposals, I am satisfied that a more detailed step-by-step Arboricultural Method Statement and a Construction Management Plan detailing construction access could be secured via a planning condition if I were minded to allow the appeal. This would allow the Council to control the construction works around the tree in order to prevent harm to its vitality.
32. On this basis, the development would not have an adverse effect on the protected horse chestnut tree and would accord with CS policy INF3 and TBLP policy NAT3 regarding the protection of green infrastructure.

Other Considerations

33. Set against the harm I have identified, there would be benefits associated with the proposal. It would generate employment during the construction phase, provide an additional dwelling to assist meeting local housing need, be designed to be a low energy house, and future residents would generate custom for local services. Given the relatively small nature of the development, these benefits however would be modest.
34. The Little Castle, Spring Lane is a grade II listed building to the north of the appeal site. The building gains its significance from being a mid-nineteenth century house notable for its 3 storey tower with additional turret, battlement parapets and other architectural features. In terms of its setting, the building

is separated from the site by some distance with trees, hedgerows and another dwelling between it and the site. The proposal would not adversely impact on the ability to appreciate the significance of the listed building and would preserve its setting.

Planning balance

35. For the reasons given, the proposals would not be in a suitable location having regard to the spatial strategy in the development plan for the distribution of housing; would cause harm to the character of the site and its surroundings which would not conserve or enhance the Cotswolds National Landscape; and would not have a suitable safe vehicular access. The development therefore conflicts with CS policies SP2, SD4, SD7, SD10 and INF1 and TBLP policies RES3, RES4, LAN2 and TRAC9.
36. The economic benefits and the benefit of a low energy house would be modest and attract only moderate weight. The Framework indicates that the contribution that a small site such as this makes to meeting the local housing requirement can be important as it can be built out relatively quickly. The proposed addition of a dwelling to the housing supply, whilst a modest benefit, would therefore attract substantial weight.
37. The CS dates from 2017 and the TBLP from 2022 but the weight to be attached to the policies contained within them does not hinge on their age. Paragraph 232 of the Framework makes it clear that due weight should be given to existing policies according to their consistency with the Framework. It recognises the intrinsic beauty and character of the countryside, the requirement to conserve and enhance National Landscapes and the need to ensure that safe and suitable access can be achieved for all users. Therefore, the conflict with the above development plan policies should be given significant weight in this appeal.
38. As there are no policies in the development plan which positively favour development of this kind in this location and as the proposal would be contrary to the policies referred to above, I conclude that there would be conflict with the development plan as a whole.
39. The evidence indicates that the Council can only demonstrate 3.24 years supply of deliverable housing sites. In these circumstances, applying footnote 8 to paragraph 11 of the Framework as revised in December 2024, permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or 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, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.
40. The Framework requires that planning decisions should protect and enhance valued landscapes and that great weight should be given to conserving and enhancing the scenic and landscape beauty of the National Landscape. As the proposal would fail to enhance the scenic and landscape beauty of the National Landscape, it would conflict with the Framework. This conflict provides a

strong reason for dismissing the appeal and as a consequence paragraph 11 d) of the Framework is not engaged.

Conclusion

41. Whilst I have not found conflict with the development plan in respect of the protected tree and cycle access, the other harms I have identified result in the proposal conflicting with the development plan as a whole. The material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above the appeal should be dismissed.

R Kent

INSPECTOR