

Appeal Decision

Site visit made on 5 October 2016

by B J Sims BSc(Hons) CEng MICE MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 27 October 2016

Appeal Ref: APP/P1615/W/16/3153810

Land at Kernow Cottage, Spout Lane, Coleford, Gloucestershire GL16 8DP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Mike Ramsbotham against the decision of Forest of Dean District Council.
 - The application Ref P1512/15/OUT, dated 6 October 2015, was refused by notice dated 8 January 2016.
 - The development proposed is the erection of up to four dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. All matters of detail are reserved for later determination.
3. Submitted plans showing optional layouts for up to four dwellings on the appeal site are taken into account as illustrative.

Planning Issues

4. The main issues are:
 - 4.1 highway safety at the junction of Spout Lane and Bank Street;
 - 4.2 land stability with respect to previous mining activity in the vicinity of the site; and
 - 4.3 the capacity of the site to accommodate up to four dwellings, as illustrated, with respect to residential amenity and the character and appearance of the site and surrounding area, including the settings of the listed Bank House to the west and the Coleford Conservation Area (CA) to the south.
 5. The proposed development falls to be assessed in the light of the provisions of the National Planning Policy Framework (NPPF), in particular its presumption in favour of sustainable development in its triple environmental, social and economic role.
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Reasons

Highway Safety

6. This issue arises from the first reason for refusal on grounds of insufficient information to ensure that the outline proposal would not, in principle, be detrimental to highway safety, through the intensification in the use of Spout Lane, which provides access to the site from the B4228 Bank Street.
7. Spout Lane is plainly sub-standard, being an unmade private street, very narrow in places with no formal footway and no street lighting. More important, visibility available to drivers of vehicles leaving Spout Lane and entering Bank Street is significantly below recommended standards for the prevailing 30mph speed limit. The appropriate sight distance is 54 metres in either direction from a point 2.4 metres back from the road edge. It is undisputed that the distances available are no more than 14 to 18 metres.
8. Moreover, the junction is complicated by the proximity of the Bank Street-Gloucester Road traffic signals, which cause queuing along Bank Street such that the entrance into Spout Lane is protected by "Keep Clear" markings. Although this arrangement will have the effect of enabling vehicles to leave Spout Lane when the signal toward Bank Street is red, when it is green it is likely that traffic will pass the site entrance at, or even above, the 30mph speed limit.
9. It is also undisputed that four new dwellings on the appeal site would generate some 20 vehicle movements per day, including about 8 during peak hours. This represents approximately a 30 per cent increase over current flows, which are of the order of 70 movements daily. The Appellant submits that current traffic flow along Spout Lane has fallen from previous levels and also that there is no record of serious accidents at the junction. Be that as it may, it is not appropriate to assess the safety of a sub-standard junction on its accident record but on a judgement of the risk attached to the intensification of its use that would result from the proposed development of up to four houses on the appeal site.
10. On this basis, given the severely restricted driver visibility, any significant increase in turning movements at the junction would pose an unacceptable risk of collision between vehicles and other road users, especially noting that Bank Street carries a not inconsiderable 1,000 vehicles per day. In this context, an increase of up to 30 per cent in turning movements is reasonably to be regarded as significant. The poor surface quality and lack of footways and lighting within Spout Lane weigh further against the intensification of its use.
11. In terms of the relevant paragraphs 32 and 35 of the NPPF, the development would thus give rise to severe residual cumulative transport impact in that it would fail to provide a safe and secure layout to minimise conflicts between traffic, cyclists or pedestrians. In this respect the development would also be in conflict with protective aims of Policy CSP.1 of the adopted Forest of Dean Core Strategy regarding environmental quality.

Land Stability

12. This issue arises from the second reason for refusal on grounds of insufficient information to demonstrate that the land stability of the site is suitable for residential use with respect to previous mining activity.

13. The Appellant relies upon a Residential Coal Authority Mining Report. This concludes, in general terms, that the site is not directly affected by prior mining activity nearby. However, there are former mine entrances and potential underground workings in the vicinity which, as a matter of judgement, should be investigated in relation to any specific development proposal, given the site is within a 'development high risk area' in relation to the mining legacy of the District.
14. As the Mining Report does not amount to such a site-specific risk assessment, there remains a substantial objection to permission on grounds of insufficient information to inform a proper decision on the issue of land stability at the site and its safety for residential use. In this connection too, the proposal is unacceptable with reference to paragraphs 109 and 120-121 of the NPPF concerning risk to development of land instability, as well as the environmental protection aims of Policy CSP.1

Capacity of the Site

15. This issue arises due to the fourth reason for refusal on grounds of insufficient information to demonstrate that the proposed development could be accommodated on the site without encroachment upon the 3 metre stand-off area either side of a public sewer which crosses the land.
16. It is accepted that it is now shown by a revised illustration that four dwellings could be set in a straight row at the north side of the site, leaving only the shared access drive and front forecourts overlapping the sewer stand-off area.
17. However, it would then appear impossible to provide each dwelling with more than about half the 100 square metres of enclosed private amenity space recommended in the adopted Forest of Dean Residential Design Guidance. In this respect, the proposal is in further conflict with Policy CSP.1, due to the adverse effect on the living environment of potential occupiers.
18. Notwithstanding the foregoing concerns, due to considerable variety in the layout and style of the surrounding built settlement, a straight row of up to four houses would not seem unduly out of place against adjacent existing development to the north or within the boundary of the Coleford Conservation Area immediately to the south, whilst the site is reasonably well separated both visually and spatially from the listed building, Bank House, to the west.
19. Subject to detailed design considerations at the reserved matters stage, the development would accordingly have no unacceptably adverse impact upon the character or appearance of the site itself or upon the settings of either the listed building or the Conservation Area.
20. However, the unacceptably reduced private amenity areas illustrated indicate that the capacity of the site is insufficient to accommodate four dwellings, albeit a lesser number could no doubt be accommodated in this respect.

Other Matters

21. The third reason for refusal was on grounds of insufficient information to demonstrate that biodiversity interests would be safeguarded. However, the Appellant has now provided further specialist information with the unchallenged conclusion that the development would not give rise to unacceptable harm to ecology. In particular, it is now accepted that protected reptiles are absent

from the site. In this respect, the development, if implemented, would thus avoid conflict with the protective provisions of Policies CSP.2 of the adopted Core Strategy and AP.7 of the emerging allocations Development Plan, which, in turn, are essentially consistent with the NPPF in seeking to protect biodiversity.

22. It is also important to take into account that the appeal site is in a town centre location, close to public amenities and services, where up to four new dwellings would make a small but significant local contribution to housing land supply, which the NPPF expressly requires to be boosted nationally.

Conclusions

23. Despite the application and appeal being entirely in outline for up to four dwellings, and the intimation by the Appellant that fewer units might be proposed at the reserved matters stage, this prospect cannot properly be considered in this appeal. That is because the proposal is expressly for up to four dwellings as illustrated and any proposal for a lesser number would involve different detailed evidence, requiring public consultation and consideration by the Council, particularly in respect of traffic generation and safety as well as land stability.
24. On an overall judgement of the present proposal, the substantial environmental objections with respect to highway safety and private amenity space, together with the uncertainty regarding land stability, significantly and demonstrably outweigh the socio-economic benefit of up to four additional homes in an accessible town centre location. The proposal accordingly fails to amount to sustainable development in terms of the NPPF. The appeal should therefore be dismissed.

B J Sims

Inspector