
Appeal Decision

Site visit made on 11 October 2016

by Jonathan Tudor BA (Hons), Solicitor (non-practising)

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

Decision date: 02 December 2016

Appeal Ref: APP/P1615/W/16/3155252

Wishing Well Cottage, Mill Lane, Kilcot, Gloucestershire GL18 1NU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs C Hyett against the decision of Forest of Dean District Council.
 - The application Ref P0040/16/FUL, dated 15 January 2016, was refused by notice dated 21 March 2016.
 - The development proposed is conversion of garage/workshop/garden implement store to form dwelling house.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the proposed development would be in a suitable location, having regard to the character and appearance of the area and the proximity of services.

Reasons

3. The appeal site is in a rural location, outside any settlement boundary, about 1km and 1.7km from the small villages of Kilcot and Gorsley respectively, which have limited services. It consists of a garage with workshop and storage space, parking area and grassland. It is used by the occupants of Wishing Well Cottage, about 50 metres to the north east, and accessed via a driveway off Mill Lane, an unclassified road.
4. A public footpath crosses the site running inside the northern boundary. The site and the scattered development along Mill Lane are surrounded by fields and open countryside. The proposal is to convert the existing building into a two bedroom dwelling with the large open grassed area to the west serving as its garden.
5. Whilst external changes to the building would be limited, residential development in such rural locations is strictly limited by local and national policies aimed at protecting the character and appearance of the countryside.
6. The Council maintains that the proposal conflicts with Policy CSP.4 of the Forest of Dean District Council Core Strategy (CS)¹, which aims to focus development within settlement boundaries in towns and villages. The appellant argues that

¹ Adopted 23 February 2012

the proposal meets the 'building conversion' exception in the policy, which also includes exceptions relating to affordable housing and new buildings for employment use. Though the proposal is to convert a building, it is pertinent that the wording used in the policy is that '*exceptions may include*'. Therefore, the policy is giving examples of possible exceptions to be considered on their particular merits rather than guaranteeing approval in such cases. It also confirms that areas outside settlement boundaries will be treated as part of the open countryside.

7. CSP.4 acknowledges that there will be cases where development is not located at settlements because of its nature but that these exceptions will need to be justified. It gives examples of agricultural and some tourism development which it may be appropriate to locate away from settlements. Therefore, the clear aim of the policy remains to concentrate development within settlements subject to limited possible exceptions which still need to be justified and evaluated.
8. The appellant argues that because the proposal has met the 'building conversion' exception, policies CSP.5 of the CS and AP.1 of the emerging Allocations Plan (AP) are irrelevant as they deal with the location of development. As explained above, I take a different view as the proposal forms a possible exception which still requires justification and evaluation against other relevant policies.
9. CSP.5 deals with housing which the proposal would become and is, therefore, relevant. It reflects the CS policy of directing housing at predominantly towns and villages. Whilst it recognises that development on previously developed land is preferable to green field sites, it also states, in relation to affordable housing, that such sites will usually be within or immediately adjoining settlement boundaries. That illustrates that the proximity to recognised settlements is still considered important even where an exception may apply.
10. Though the AP is undergoing examination, that process is well advanced and the Inspector's Interim Findings have been published. The Council advises that the findings support the settlement hierarchy in the district. The AP also represents the Council's current view on appropriate locations for development. Therefore, I afford it some weight. In any event, AP.1 concerns assessing planning applications in terms of sustainable development and reflects the general tenets of the National Planning Policy Framework (the Framework).
11. The Council also cites paragraphs 17 and 55 of the Framework in its reasons for refusal. Whilst I note that the proposal would utilise previously developed land, another of the core planning principles in paragraph 17 is that account should be taken of the different roles and character of different areas and that the intrinsic character and beauty of the countryside should be recognised. That thrust is supported by paragraph 55, which advises local planning authorities to avoid new isolated homes in the countryside unless there are special circumstances. That substantially reflects the similar approach of CSP.4.
12. The Framework is an expression of Government Policy and a material consideration in determining planning applications. It gives specific examples of the special circumstances that may justify a departure from the basic principle of avoiding isolated new homes.

13. One of the special circumstances is where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting. The appellant accepts that the building does not fall into that category because it is used for domestic storage and in connection with the landscaping business run by the occupants of Wishing Well Cottage. That is in accord with what I saw on my site visit. Though the appellant's agent makes the point that the current use could be terminated leading to the building becoming redundant or disused, it does not currently meet the example given in the Framework and would still be a garage ancillary to and available for use by the occupants of Wishing Well Cottage.
14. Whilst I note the appellant's views about the non-exhaustive nature of the list of exceptions in the Framework and the recent introduction of extended permitted development rights, I consider that paragraph 55 is clear in its wording in relation to the relevant exception. As the appellant has pointed out, the CS was published prior to the Framework, and as the Framework is a material consideration, it is right to take its subsequent position into account.
15. Furthermore, the second element of the 'redundant or disused buildings' exception in paragraph 55 is that the development should lead to an enhancement of the immediate setting. Whilst such an enhancement can be imagined in the case of the renovation of a disused or redundant building, there is no persuasive evidence that the proposed development would lead to such an enhancement and the building is in good condition.
16. The appellant suggests that despite discussion about conflict with policy, no actual harm has been evidenced. It is reasonable to conclude that the rationale of CSP.4 and the Framework in seeking to limit isolated residential development in the open countryside is to avoid its cumulative adverse impacts on the character and appearance of the rural environment.
17. Though the external changes to the building would not be extensive, its conversion to a dwelling with a sizeable garden would represent an intensification of residential use of the immediate area, where there would be two dwellings rather than one. The garden would be likely to attract the domestic paraphernalia associated with a residential dwelling such as washing lines, garden furniture and other equipment. The relatively small dwelling would have limited storage and no garage which could lead to items being stored outside or pressure for further storage buildings, if not limited by condition.
18. Though the site is largely screened from the road by hedges, there would be clear public views from the public footpath. It runs west to northeast across the northern boundary and passes the entrance and front of the building. Walkers would be close to and see both the proposed house and its garden. Whilst it is accepted that they already pass a building, it is a garage and store rather than a home and the change of use would change its character. A member of the public has also indicated that the close proximity of the dwelling may also affect the willingness of walkers to use the footpath.
19. Policy CSP.1 notes that rural areas can be especially sensitive to small changes such as redevelopment of dwellings and conversion of rural buildings. It states that particular care should be taken to ensure that such proposals do not adversely affect the traditional, settled appearance of the countryside. I share the Council's view that the proposal fails to take into account the effects of a

change to a residential use with associated large domestic garden on the immediate and wider rural environment. Overall, the proposal would change the character and appearance of the site and the area to its detriment.

20. Though the appeal site is not far from the small villages of Kilcot and Gorsley, they have minimal services. Newent, about 2.5km to the east, is a town with more extensive facilities. There are bus stops about 780 metres away on the B4221 but there is no footway along the highways leading to that road and no street lighting. Therefore, it is likely that future occupants would be reliant on the use of private motor cars, leading to additional car journeys. One of the key questions posed within emerging policy AP.1 is how easily facilities and services can be accessed without use of a private car. That is part of the consideration of sustainability which also pervades the Framework.
21. Paragraph 7 of the Framework states that there are three dimensions to sustainable development: economic, social and environmental. In economic and social terms there would be a contribution to the supply of housing, in accord with paragraph 47 of the Framework, but this would be very limited given it would be one house. There would be some economic uplift during construction. Future occupants would make a contribution to the local economy and community.
22. Environmentally, the creation of an additional residential dwelling in a remote location in the open countryside and its consequent effects on character and appearance, already described, attracts significant weight. The appellant accepts that by virtue of its location there would be reliance on private car use, which also weighs against the proposal. Overall, I consider that the environmental impacts outweigh the limited economic and social benefits.
23. The appellant refers to the expansion of permitted development rights in relation to agricultural and commercial buildings but that is a particular procedure limited to specific circumstances. It does not change the content of the Framework and is, in any event, not directly applicable to this appeal.
24. Whilst each application and appeal must be treated on its individual merits, I can appreciate the Council's concern that approval of this proposal could be used in support of similar schemes in equally isolated rural areas. I consider that this is not merely a generalised fear of precedent, but a realistic and specific concern as it is likely that there would be similar large garages or outbuildings associated with dwellings on generous plots in many rural locations. They could also lend themselves to such proposals. Allowing this appeal would make it more difficult to resist further planning applications for similar developments, and I consider that their cumulative impact would potentially exacerbate adverse effects on the countryside.
25. Therefore, I conclude that the proposal would be in an unsuitable location, harming the character and appearance of the area and being remote from services. It follows that it would be contrary to the objectives of policies CSP.1, CSP.4 and CSP.5 of the CS and policy AP.1 of the emerging AP, as well as paragraphs 17 and 55 of the Framework, insofar as they all seek to ensure that isolated development in the countryside is avoided, subject to limited exceptions, so that its character and intrinsic beauty is safeguarded.

Conclusion

26. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Jonathan Tudor

INSPECTOR