
Appeal Decision

Site visit made on 14 February 2017

by Rory Cridland LLB (Hons), Solicitor

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

Decision date: 21st March 2017

Appeal Ref: APP/P1615/W/16/3163741

**Land to the South of The Lawns, Silver Street, Mitcheldean,
Gloucestershire GL17 0BZ**

- 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 & Mrs Colin & Marlene Wozencroft against the decision of Forest of Dean District Council.
 - The application Ref P1495/15/OUT, dated 14 December 2015, was refused by notice dated 23 May 2016.
 - The development proposed is described as "outline application for the erection of a one single storey dwelling. Improvement to vehicular access".
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Decision

1. The appeal is allowed and planning permission is granted for the erection of one single storey dwelling and improvement to vehicular access at Land to the South of The Lawns, Silver Street, Mitcheldean, Gloucestershire GL17 0BZ in accordance with the terms of the application, Ref P1495/15/OUT, dated 14 December 2015, subject to the conditions set out in the attached Schedule.

Preliminary Matters

2. The application was submitted in outline, with all matters reserved. I have dealt with the appeal on that basis, treating all plans as illustrative.
 3. Within its written evidence the Council has confirmed that it wishes to withdraw its second reason for refusal (effect on ecology) following the ecological report provided by the appellant as part of this appeal. On the basis of the submitted evidence, I have no reason to disagree with the Council's approach in respect of this matter. Accordingly, I have not considered it as part of my reasoning below.
 4. The Council has referred to Policies AP1 & AP4 of its emerging Allocations Plan. Paragraph 216 of the National Planning Policy Framework ("the Framework") indicates that policies in emerging plans may be given weight according to, amongst other things, the stage of preparation of the existing plan and the extent to which there are unresolved objections to relevant policies. The AP is at a reasonably advanced stage, with the Inspector having reported his interim findings. However, I am mindful it is still subject to final examination and there is some potential for further amendment. Furthermore, there is little information on the number of outstanding objections to these policies. As such, I afford them limited weight in the determination of this appeal.
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Main Issues

5. The main issues are whether the site offers an acceptable location for the proposed development and its effect on the character and appearance of the surrounding landscape.

Reasons

6. The appeal site is located immediately adjacent to the settlement boundary of Mitcheldean and consists of a parcel of agricultural land located at the end of a cul-de-sac. This edge of the settlement is defined by the neighbouring residential property 'The Lawns' together with 'Merrydean' situated opposite. Other than the residential properties situated to the north along Silver Street, the area surrounding the appeal site is mostly agricultural with a strong rural setting evident within the landscape. The site itself is generally level with access provided via a field gate. The northern boundary is screened by a row of large conifers with the other boundaries consisting of varying levels of mature vegetation.
7. Policy CSP.1 of the Forest of Dean Core Strategy¹ requires the design and construction of new development to take into account important characteristics of the environment and to conserve, preserve or otherwise respect them in a manner that maintains or enhances their contribution to the environment, including their wider context. In assessing proposals, consideration will be given to, amongst other things, the effect of proposals on the landscape.
8. The Council is concerned that the development would extend the settlement south, resulting in an unacceptable incursion into the surrounding open, rural landscape. It considers that this would change its visual characteristics from rural agricultural land to an urban residential development, which in view of its elevated position in relation to the other nearby dwellings, would result in a prominent addition to the landscape.
9. However, although I accept that the site is visible from a number of vantage points, including from the nearby elevated section of the A4136, it is not prominent within its surroundings and its overall contribution to the landscape is limited. Furthermore, while I note the Council's concerns regarding its visibility from nearby public footpaths, I observed that from these areas the site was seen within the context of the neighbouring residential development. It was clear that any impact on the character of the landscape would be minimal. On balance, I do not consider the addition of a single dwelling to this site would materially alter the surrounding landscape or would fail to preserve or otherwise respect the important characteristics of the environment. As such, I find no conflict with CS Policy CSP.1.
10. Nevertheless, CS Policies CSP.4 & CSP.5 seek to steer development into settlements and to restrict development outside the defined settlement boundaries other than in a limited number of defined circumstances, none of which apply in this instance. As the appeal site lies outside the settlement boundary, there is essentially an 'in principle' objection to residential development on this site.

¹ Forest of Dean District Council Core Strategy Adopted Version (Feb 2012).

11. Consequently, although I have found that the proposal would not result in a significant level of harm to the surrounding landscape, it would nevertheless be located contrary to CS Policies CSP.4 & CSP.5.

Planning Balance

12. The Council accepts that it does not have a deliverable 5 year supply of housing land. Government policy as set out in paragraph 49 of the Framework advises that where the Council cannot demonstrate a five year supply of deliverable housing sites, policies for the supply of housing should not be considered up-to-date. Policies CSP.4 & CSP.5 are such policies. However, they are out-of-date on the basis of the lack of required housing land supply and, accordingly, I afford them limited weight.
13. The proposal, while modest, would deliver a number of benefits including its contribution to the overall housing supply, the benefits to the local economy as well as providing some small support for local services. Individually, these benefits are small. However, cumulatively they provide some support in favour of the proposal and I afford them a moderate amount of weight.
14. As a general rule, I do not believe that defined settlement boundaries within an adopted plan should be set aside lightly. However, in view of the lack of any material harm identified above, I consider the adverse impacts that would result from a departure from these policies would not, in this instance, significantly and demonstrably outweigh the above benefits when assessed against the policies in the Framework as a whole. This leads me to conclude that the proposal would represent sustainable development which the Framework indicates should be granted permission.

Other matters

15. The Council's decision notice also refers to Policy CSP.16 as forming part of the reason for refusal. This policy requires consideration to be given to the level of services which are accessible and the availability of public transport when considering proposals in villages. This accords generally with the guidance set out in Paragraph 55 of the Framework which advises against isolated homes in the countryside. However, in view of its location immediately adjoining the settlement boundary, I have seen nothing which would indicate that the site would be sufficiently remote from either local services or public transport that it would lead me to conclude that it would be isolated or that services or public transport was sufficiently inaccessible that development at this location would be contrary to Policy CSP.16 or the guidance set out in the Framework.
16. In reaching my conclusion, I have noted the appeal decision referred to by the Council². Whilst I do not have full details of that case, it is clear that the weight given to the harm identified was sufficient to significantly and demonstrably outweigh the benefits that would result from those proposals. While taking that decision into account, I note that circumstances vary and each appeal should be determined on its own merit.

Conditions

17. I have had regard to the various planning conditions that have been suggested by the Council. In addition to the standard conditions regarding the submission

² APP/P1615/W/15/3139994

and approval of reserved matters (including landscaping) and the commencement of development, I regard a condition requiring the submission of detailed proposals on the disposal of water to be necessary in order to ensure that the site is adequately drained.

18. Those which seek to limit construction to outside the construction exclusion zone ("the CEZ") and require the submission of a Construction Environmental Management Plan (CEMP) are necessary in order to ensure that any adverse impacts on ecology are suitably mitigated. Some of these conditions are very detailed and can, in my view, be more concisely worded. As such, I have amended them accordingly.
19. However, I do not consider those which relate to floor levels, landscaping lighting or parking to be necessary as they can adequately be dealt with as part of the reserved matters.

Conclusion

20. In conclusion, I have found above that the proposal would not be harmful to the character of the surrounding landscape. Furthermore, while I have found that it would conflict with CS Policies CSP.4 & CSP.5, in view of their limited weight, I consider there to be material considerations which indicate that a departure from these development plan policies is justified. For these reasons, I conclude the appeal should be allowed.

Rory Cridland

INSPECTOR

SCHEDULE

Conditions

- 1) Details of the access, appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) Prior to the commencement of development, details of surface and foul water drainage, including details of any connection to an existing facility, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with those details so approved.
- 5) The Development hereby permitted shall be limited to areas outside of the CEZ as shown in appendix 4 of the Survey and Mitigation Report (Ros Wilder Ecology 19 October 2016 ("the SMR")) and there shall be no storage of materials, machinery or other equipment within the CEZ.
- 6) Prior to commencement or any site clearance a CEMP shall be agreed in writing with the LPA and there after development shall be carried out in strict accordance with the plan. The plan shall cover all environmental management factors in relation to the development and include:
 - i. details of 1.8m minimum height exclusion fencing, with badger gates to safeguard the exclusion zone as set out in the SMR during construction;
 - ii. details of the precautionary method statement for site excavations.
 - iii. an ecological clerk of works, and locations where public contact details will be displayed for the public;
 - iv. the locations for storage of construction materials and equipment;
 - v. an induction briefing pack for all operatives;
 - vi. details of an enhancement planting scheme for badgers as set out in the SMR; and
 - vii. details and reporting mechanisms for post construction monitoring.