The Planning Inspectorate

Appeal Decision

Site visit made on 26 November 2018

by Rory Cridland LLB (Hons), Solicitor

an Inspector appointed by the Secretary of State

Decision date: 11th January 2019

Appeal Ref: APP/F1610/W/18/3201665
West Ruggers Wood, Shipton Grave Lane, Avening GL8 8NE

- 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 & Mrs Anthony & Estelle St John Smith against the decision of Cotswold District Council.
- The application Ref 17/02786/FUL, dated 6 July 2017, was refused by notice dated 6 February 2018.
- The development proposed is change of use to include camping and educational courses.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development set out in the banner above has been taken from the Council's decision notice as it more concisely describes the development proposed.

3. The Council's written evidence refers to a number of policies from the emerging Local Plan for Cotswold District 2011-2031. However, these policies do not form part of the Council's reasons for refusal and have not been relied upon by either of the main parties. As such, I have not considered them in my reasoning below.

Main Issues

4. The main issues are:

(i) the effect of the proposal on the character and appearance of the Cotswolds Area of Outstanding Natural Beauty ("the AONB");

(ii) whether the site offers an acceptable location for the proposed development having regard to its countryside location;

(iii) the effect of the proposed development on biodiversity; and

(iv) whether the proposal would provide safe access to the site.

Reasons

Character and appearance

5. The appeal site is located in the AONB, some distance from the settlements of Nailsworth and Avening. It forms part of a larger area of woodland situated on

a relatively flat parcel of land which is prominent within the surrounding landscape. Despite the screening provided by the trees and boundary hedging, views into the site are possible from the nearby access track and bridleway which runs along its north western boundary.

6. The proposal would involve the change of use of the site from woodland to campsite together with some educational courses being offered. It would result in the provision of 8 fixed-location camping plots with a toilet block, cooking/communal facilities and washing up area. It would also include a gravel based parking and turning area to the front of the site.

7. While I note the appellants' intention is to carry out the development with as little impact on the natural environment as possible, it would nevertheless introduce a very discernible development into an unspoilt and rural part of the AONB. Although visibility would be limited when viewed from further afield, the tents and other structures associated with the development would be clearly visible from outside the site entrance and along its boundary with the adjoining bridleway and access track. This would negatively impact on the character and appearance of both the site itself and its immediate surroundings and would erode the scenic beauty of this part of the AONB. While I acknowledge that further planting along the boundary would help reduce views into the site, this would provide only partial mitigation and would be insufficient to overcome the harm identified above.

8. Consequently, I find the proposal would negatively impact on the character, appearance and local distinctiveness of this part of the district and would erode the scenic beauty of the AONB. As such, it would be in conflict with Policy 42 of the Cotswold Local Plan 2001-2011[1] (LP) which seeks to ensure that new development respects the character, appearance and local distinctiveness of the district. It would also be contrary to the advice set out in paragraph 170 of the National Planning Policy Framework ("the Framework") which advises that planning decisions should contribute to, and enhance, the natural and local environment by, amongst other things, protecting and enhancing valued landscapes.

Location

9. LP Policy 19 permits limited development in the countryside provided it is appropriate to the rural area, relates well to existing development and meets the criteria set out in other relevant LP policies. Furthermore, LP Policy 26 specifically deals with tourist related development and permits campsites within the identified zones, as part of a farm diversification scheme and exceptionally elsewhere provided that, in all cases, they comply with specific defined criteria including that they are well located to the main tourist routes.

10. The appeal site is located in open countryside for planning purposes, some distance outside the nearby settlements. It is in a difficult to access location outside of any identified zone for such development and away from the main tourist routes. As such, I do not consider it would relate well to existing development. Furthermore, it does not from part of a farm diversification scheme and while I note the proposal's environmental credentials, I am not persuaded that they provide the exceptional circumstances necessary to justify

[1] Adopted April 2006.

such a development in this rural countryside location. Consequently, the proposal would be contrary to LP Policies 19 & 26.

11. However, the Council has acknowledged that these policies do not accord with the Framework and should be afforded only moderate weight. I agree with that assessment. Furthermore, I note that paragraph 83 of Framework advises that planning decisions should enable sustainable rural tourism and leisure developments which respect the character of the countryside. However, while I recognise that sites to meet local business needs in rural areas may have to be found beyond existing settlements and in locations that are not well served by public transport, the Framework also recognises the importance of ensuring that development is sensitive to its surroundings. For the reasons already set out above, I consider the proposal would not respect the character and appearance of the surrounding sensitive countryside. As such, the support it derives from the Framework is limited.

12. Consequently, I find the proposal would not offer an acceptable location for the proposed development and as such would be in conflict with LP Policies 19 & 26. It would also fail to accord with the guidance set out in the Framework.

Biodiversity

13. The appeal site forms part of an area classified as a PAWS[2] which adjoins a larger area of ancient and semi-natural woodland. It is covered by woodland Tree Preservation Order[3] (TPO) which provides a reasonable amount of protection for the trees on site.

14. LP Policy 10 restricts development which would destroy or adversely affect a tree or woodland protected by a TPO other than in a limited number of defined circumstances. Furthermore, Policy 9 of the LP restricts development that harms, either directly or indirectly, a site supporting any legally protected species or its habitat unless safeguarding measures can be secured. These policies accord generally with the guidance set out in the Framework which indicates that planning decisions should protect and enhance sites of biodiversity and that development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland[4], should be refused unless there are wholly exceptional reasons.

15. The appellant has submitted an arboricultural assessment which indicates that no trees are proposed for removal or would be affected by the works or structures. Nevertheless, the proposed development would introduce a more intensive use for purposes not directly associated with woodland management, increase the number of visitors and result in the accumulation of a variety of camping and other paraphernalia. This would put pressure on this ancient woodland and result in the deterioration of this irreplaceable habitat.

16. Furthermore, while there is currently little robust evidence to establish whether or not bats or other protected species are present on the site, the appellants' Ecological Report[5] (ER) indicates that there is some potential for a number of

[2] Plantation on Ancient Woodland Site (PAWS).
[3] Cotswold District Council Tree Preservation Order No 484 (Ruggers Green and Oldfield Wood, Near Avening, Gloucestershire) 2010 (dated 3 February 2010).
[4] and PAWS.
[5] Ecological Considerations for West Ruggers Green Wood (July 2017).

protected species to be present. DCLG Circular 6/2005[6] ("the Circular") advises that 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 the grant of planning permission. This is in order to ensure that all relevant material considerations have been addressed in the decision making process. While I note the conclusions of the ER that, with suitable protective and enhancement measures, the proposal would not result in any significant loss of biodiversity value to the woodland, no detailed survey data has been provided and no assessment of the impacts on protected species has been undertaken. In the absence of such information, even though I acknowledge the appellants' approach to the site management is well intentioned, I cannot be satisfied that any disturbance could be adequately managed.

17. Consequently, for the reasons set out above, I consider the proposal would result in the deterioration of this irreplaceable habitat. Furthermore, I find that there is insufficient information available to establish with any certainty whether the proposal would result in unacceptable levels of disturbance to sensitive wildlife species. As such, the proposed development would be contrary to LP Policies 9 & 10 as well as the guidance set out in the Framework.

Highway safety

18. The site is accessed along a single vehicle access track and located around 1.2km from the nearest main road. The existing track is in a poor state of repair for a considerable distance and poses a number of challenges to drivers seeking access to the site.

19. The appellant has indicated that access by car will be discouraged and visitors will be transported to and from the site by horse and cart wherever possible. However, some visitors will nevertheless still wish to access the site by car and there will inevitably be some increase in vehicle movements along the existing track. The increased use of this poorly surfaced track by motorised vehicles would increase the risk of collision and result in further deterioration of the road surface. It would also increase the risk of conflict with pedestrians and cyclists using the route.

20. While I accept that there are opportunities to promote sustainable transport modes, given the type of development proposed and its location, I am not persuaded that the existing track would provide the safe and suitable access for all users which both LP Policy 38 and the Framework indicate should be ensured for all development.

21. Accordingly, I find the proposal would be contrary to LP Policy 38 and the guidance set out in the Framework, both of which require new development to, amongst other things, provide sustainable and safe access for all users.

Other Matters

22. I note the proposal's sustainability and environmental credentials and the appellants' assertions that the development is needed to fund the restoration of the woods. However, these do not overcome the policy conflicts identified above.

[6] Circular 6/2005 Biodiversity and Geological Conservation – Statutory Obligations and their impact within the planning system; DCLG (ISBN: 9780117539518).

Conclusion

23. I have found above that the proposal would fail to respect the character, appearance and local distinctiveness of this part of the district and would erode the scenic beauty of the AONB. In accordance with paragraph 172 of the Framework, I afford this great weight.

24. Furthermore, I have found that the site would not offer an acceptable location for the proposed development and that insufficient information has been provided to show that the proposal could be implemented without resulting in unacceptable levels of disturbance to protected species and habitats. In addition, I do not consider it would provide safe and suitable access for all users. Taken together, this would be in conflict with a number of LP policies which are fundamental to its overall operation and effectiveness - as well as the guidance set out in the Framework. As such, I consider the proposal would be in conflict with the development plan as a whole.

25. Consequently, for the reasons set out above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

Rory Cridland

INSPECTOR