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# Appeal Decision

Site visit made on 24 June 2019

**by Nick Davies BSc(Hons) BTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 29 July 2019**

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**Appeal Ref: APP/H1840/W/19/3223189**

**Land adj to Froglands Lane, Cleeve Prior WR11 8LB**

- 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 T Farmer against the decision of Wychavon District Council.
  - The application Ref 18/01692/FUL, dated 14 August 2018, was refused by notice dated 12 October 2018.
  - The development proposed is 5 new dwellings.
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## Decision

1. The appeal is dismissed.

## Main Issues

2. The main issues are:
  - a) Whether the site is a suitable location for residential development having regard to the policies of the development plan;
  - b) Whether the proposals would preserve or enhance the character or appearance of the Cleeve Prior Conservation Area (the CA); and
  - c) The effect of the development on the habitat of Great Crested Newts.

## Reasons

### *Suitability of site for residential development*

3. The appeal site is part of a fairly level agricultural field on the north-eastern edge of Cleeve Prior. At the time of my visit it was being grazed by sheep. The south-western boundary of the field abuts the side and rear garden boundaries of dwellings within the village, and the north-western boundary fronts Froglands Lane. Although the appeal site lies adjacent to built development on these two boundaries, the field is part of a much larger tract of open undeveloped agricultural land that extends to the north, west and east. It is common ground between the parties that the appeal site lies outside the development boundary for the settlement as identified in The South Worcestershire Development Plan (2016) (the Development Plan).
4. Policy SWDP2 of the Development Plan sets out the development strategy for the area, which, for housing, involves focussing most development on the urban areas and safeguarding the open countryside. Part B of Policy SWDP2 provides that windfall development is acceptable within development boundaries. Part C of Policy SWDP2 identifies the open countryside as land

beyond any development boundary. Within the open countryside development will be strictly controlled, and new housing will be limited to dwellings for rural workers, rural exception sites and replacement dwellings. None of these circumstances apply to the appeal proposals. Consequently, the proposed development would be contrary to Policy SWDP2 of the Development Plan.

5. I am mindful that Paragraph 78 of the National Planning Policy Framework (the Framework) says that planning policies should identify opportunities for villages to grow. The site lies immediately adjacent to the development boundary, so the development would not be isolated. Occupants of the houses would have easy access to those facilities and services that exist in the village, and they would help to support those services. However, these factors in favour of the development, could be advanced for any site on the edge of the village, and the cumulative impact of a series of such proposals would undermine the settlement strategy of the Development Plan. They do not therefore represent exceptional circumstances that would justify a decision contrary to an up-to-date development plan.
6. It is common ground between the parties that the site lies within an area designated as Local Green Space by the Cleve Prior Neighbourhood Plan 2016-2031 (the Neighbourhood Plan). However, in light of the findings of the Landscape and Visual Appraisal (LVA) submitted with the application, the appellant questions whether the area is "demonstrably special". The Neighbourhood Plan explains that the area was so designated for its historical value and because it is a significant area of open space which, together with other land, forms a series of linked spaces within the CA. The Neighbourhood Plan, including the Local Green Space designation, has been scrutinised by an Independent Examiner for general conformity with national and local strategic planning policies, and was adopted in February 2018. Consequently, the designation is up-to-date and based on evidence that has been properly tested. Policy CP2 of the Neighbourhood Plan says that within Local Green Spaces development is ruled out, other than in very special circumstances.
7. The LVA highlights that the appeal site is a small proportion of the Local Green Space. This, however, is an argument that could be made in respect of any modest proposal in the Local Green Space. The LVA concludes that the largest visual impact will be from the site boundaries, and that long-distance views will be affected to a lesser degree. From my own observations I concur with this conclusion. I saw that the proposed houses would be highly visible looking down Froglands Lane in both directions. From both viewpoints they would be an obvious intrusion of built development into the undeveloped field. The new hedgerow and tree planting would go some way towards softening the impact over time, but the benefits of this planting would not outweigh the loss of the openness of the Local Green Space through permanent built development.
8. There is currently no public access to the appeal site, or the wider field that comprises the Local Green Space. The appeal scheme proposes a public footpath around the southern and eastern boundaries of the field to allow a greater level of public appreciation of the space. The LVA highlights this as a significant benefit of the scheme. However, I saw that the open nature of the land was already easily observed from Froglands Lane, and that footpath access was already available around the western and northern perimeters of the field. Consequently, the benefit of the footpath around the other field edges

is limited. I therefore find that the very special circumstances needed to justify development in the Local Green Space have not been demonstrated.

9. To conclude on this issue, the proposal for residential development outside the development boundary and within Local Green Space would be contrary to up-to-date development plan policies. Paragraph 12 of the Framework makes it clear that proposals that conflict with up-to-date development plans (including neighbourhood plans) should not usually be granted. There are no material considerations of sufficient weight to indicate that the policies of the development plan should not be followed. The appeal site would not therefore be a suitable location for residential development, as it would conflict with the strategy set out in Policy SWDP2 and Policy CP2 of the Neighbourhood Plan, outlined above.

#### *Character or appearance of the CA*

10. The appeal site, and the wider field, are included within the Cleeve Prior CA. The boundary has been drawn to reflect the special interest of the CA, which lies in its historic buildings and settlement layout, and their strong visual and historic link with the agricultural hinterland of the village. The appeal site forms part of this agricultural hinterland, and therefore makes a positive contribution to the significance of the heritage asset. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA.
11. The proposed development involves encroachment onto the open agricultural land on the periphery of the village. However, the evidence of medieval farming practices is not as evident on the appeal site as it is on the wider agricultural land to the north. The proposed layout would reflect the linear street pattern of the settlement and would not extend development beyond the edge of the built form on the western side of Froglands Lane. Consequently, although housing on the site would be contrary to development plan policies for the location of residential development, a row of 5 houses here would not necessarily result in harm to the character or appearance of the CA.
12. The layout, massing and height of the proposed dwellings would not be out of character with the CA. However, there are elements of the scheme that would result in the development not sitting comfortably in its historic semi-rural setting. The double garages for Plots 1, 2 and 5 would project well beyond the main elevation of the houses, or in the case of Plot 3 would be detached and set in front of the house. These structures, with their wide doors and (except for Plot 5) featureless gable ends, would tend to dominate the street scene. They would set the houses apart from the historic character of other buildings in the CA, that were not generally designed around the desire to accommodate private motor vehicles.
13. This disharmony would be heightened by the use of some modern materials, such as aluminium windows and composite doors, which are not characteristic of the CA. Whilst the use of stone and brick is appropriate in the CA, the use of both of these materials within a semi-detached pair is not typical, and results in the group of houses having a rather incoherent appearance. This is further emphasised by the fenestration, which does not draw on the historic window patterns and proportions prevalent in the CA. As a result, the development would appear as an uncharacteristic modern addition on the edge of the

village, rather than a natural part of its historic linear expansion. The development would therefore be harmful to the character and appearance of the CA.

14. The harm that arises is localised and therefore the impact on the CA, as a whole, is less than substantial within the meaning of Paragraph 193 of the Framework. The Framework advises that less than substantial harm should be considered in a balanced manner, against any public benefits associated with the development. The harm that I have found relates to the design of the buildings, and I have no evidence to suggest that any benefits that would result from the development are dependent on the detailed design proposed. Paragraphs 193 and 194 of the Framework advise that any harm to the significance of the CA requires clear and convincing justification, and great weight should be given to the conservation of designated heritage assets.
15. For the reasons given above, I conclude that the proposals would be contrary to Policies SWDP6, SWDP21 and SWDP24 of the Development Plan, which seek to conserve and enhance heritage assets in accordance with the Framework and national legislation. The development would also be contrary to Policy CP4 of the Neighbourhood Plan, which aims to ensure that the design of new development reflects the character of the village and the CA.

#### *Great Crested Newt habitat*

16. The application was accompanied by a Phase 1 Preliminary Ecological Appraisal (P1PEA), which did not find any Great Crested Newts (GCNs) to be present on the site. It notes, however, that GCNs are present within 5km. GCNs are a European protected species and the P1PEA highlights that habitats within 500 metres of a breeding pond are protected by the legislation. There are 2 ponds near to the northwest boundary of the site, one on either side of Froglands Lane. Pond 1, on the eastern side of the lane has a previous record of GCN presence, although I have no evidence as to whether this related to breeding. The P1PEA found the terrestrial habitats around the ponds to have a very low suitability for the species. A Habitat Suitability Assessment of Pond 2 found it to be of poor quality for GCNs, with a 0.03% predicted presence. It is therefore unlikely that the ponds or the appeal site support breeding GCNs.
17. There are, apparently, other ponds within 250 metres of the site. GCNs can range a considerable distance from breeding sites, so connectivity within the landscape is important to their survival, as it allows them to move from ponds that become unsuitable to more favourable sites, or to newly dug ponds. The favourability of these other existing ponds as GCN habitat is unknown, as they have not been surveyed. Consequently, the extent of GCN populations present in the area, or on ecologically connected habitats, has not been fully assessed. Nevertheless, the P1PEA does demonstrate that the ponds nearest to the site, and the terrestrial habitats around them are not suitable. It is therefore unlikely that they form part of a linked network of GCN sites. The development is therefore not likely to result in harm to GCN habitat close to the appeal site, or to any wider network.
18. Paragraph 170d of the Framework says planning decisions should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity. The P1PEA concludes that the appeal site is of low ecological value, consisting of an arable field corner. The proposed development would therefore be unlikely to have any harmful impacts on

biodiversity, including GCNs. It would, however, lead to some small gains for biodiversity in the native hedgerow planting for the plot boundaries, and the potential for bat and bird boxes to be incorporated within or on the new buildings. The gardens themselves would be likely to provide more diverse habitats than are currently present on site, including the potential for wildlife friendly planting and garden ponds.

19. For these reasons I conclude that the development would not be likely to result in harm to GCN habitat, or to any other ecological interests. The proposals would therefore comply with Policy SWDP22 of the Development Plan and Policy CP3 of the Neighbourhood Plan, which seek to ensure that proposals minimise impacts on biodiversity and provide net gains where possible.

### **Conclusion**

20. Although I have found there to be no harm to biodiversity interests as a result of the development, this does not outweigh the conflict with development plan policies for the location of housing, and the failure to preserve the character or appearance of the CA. I therefore conclude that the appeal should be dismissed.

*Nick Davies*

INSPECTOR