



Appeal Decision

Site visit made on 6 August 2019

by J Moss BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 September 2019

Appeal Ref: APP/C1625/W/19/3227949

23 Springhill, Cam GL11 5HG

- 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 D Stevenson against the decision of Stroud District Council.
 - The application Ref 19/0201/OUT, dated 8 January 2019, was refused by notice dated 25 March 2019.
 - The development proposed is a replacement dwelling. Fully demolish the existing dwelling and construct a four-bedroom dwelling of a similar scale in its place.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was in outline with all matters reserved for later determination. I have therefore determined the appeal on that basis.
3. The application was accompanied by block plan 101 showing a location for the proposed dwelling. I have regarded all elements of that drawing as indicative.
4. On my site visit I noted that the appeal site was substantially overgrown and, whilst I was able to enter the site at its eastern end, I was not able to gain access into the structure that was on site. I am, however, satisfied that my observations from within the site, from the public footpath to the east of the site and from the adjoining highway were sufficient for the determination of this appeal on the main issues identified below.

Main Issues

5. The main issues are as follows:
 - whether the location of the proposed development would be acceptable, having regard to the policies for new housing outside of settlements identified in the Council's settlement hierarchy; and
 - the effect of the development on biodiversity.

Reasons

Location of the Development

6. The appeal site is outside of the defined development limits of any settlement within the Council's settlement hierarchy, as identified in core policies CP2 and

CP3 of the Stroud District Local Plan Adopted November 2015 (SDLP). Indeed, the appeal site is physically separated from the development limit of the closest settlement by approximately 350 metres. Access to that settlement is along a rural lane that is mostly single track and without a footway.

7. Notwithstanding the above, the strategic policies of the SDLP allow for certain development outside of the defined development limits in exceptional circumstances. These circumstances are set out in Core Policy CP15 and include the replacement of a dwelling.
8. Delivery Policy HC5 of the SDLP expands upon Core Policy CP15 and sets out the criteria that must be met for permission to be granted for the replacement of a dwelling. The first criterion requires that the residential use must not have been abandoned.
9. There is no disagreement between the parties that there was, at some point, a lawful residential use of the site by virtue of a dwelling house. What is in dispute is whether or not the lawful use rights have been abandoned and whether or not the site can be considered to be previously developed land, as referred to in the National Planning Policy Framework (the Framework).
10. The appeal site has not been occupied in 13 years, which is a considerable period of time to leave a dwelling house unoccupied. I acknowledge that the owner may have intended to return to the property during this time, although they were unable to do so due to ill health. Neither party has suggested that there has been any other use of the site since 2006.
11. With regard to the physical condition of the land and building, of significance is the fire that took place in 2016, which the appellant suggests left only the external walls remaining. On my visit to the site I saw only one external wall, a gable end, that could be regarded as substantially remaining. There were some sections of other external walls, but no other gable end wall was obvious. Furthermore, there was no evidence of a roof on the structure. I could see into the remaining structure on site and noted that the internal first floor level was missing. There were also no window frames or glazing visible in the openings that I could see in the remaining external walls.
12. Having regard to the above, it is reasonable to conclude that the lawful use rights of the site have been lost. Whilst the home owner may have intended to return to the property and continue its use as a dwelling house, the property has remained unoccupied for a substantial period. In addition, in view of the physical condition of the site as observed on my site visit, it is reasonable to conclude that the remaining structure is not capable of a use as a dwelling house.
13. Accordingly, the site cannot be regarded as previously developed land the use of which is encouraged in the Framework. Whilst there are the remnants of a building on the site, the remaining structure is so minimal and the site as a whole is so over grown that what remains can be regarded as having blended into the landscape.
14. I conclude, therefore, that the proposed development would not benefit from any of the provisions of Core Policy CP15 or Delivery Policy HC5 of the SDLP as it would not amount to the replacement of an existing dwelling. Neither would

the development benefit from the preference in the Framework for the use of previously developed land.

15. In view of this and noting that the appeal site is outside of the defined development limits of any settlement within the SDLP settlement hierarchy, the location of the proposed development would be unacceptable and in conflict with the Council's planned strategy for growth across the district, as set out in core policies CP2 and CP3 of the SDLP. The primary focus of the strategy is for growth and development within principle settlements in order to safeguard and enhance their strategic roles as employment and service centres.

Biodiversity

16. I have had regard to the representations made on the matter of ecology and biodiversity, including the Council's suggestion that the site is a potential habitat for snakes and lizards. It is not, however, suggested that the appeal site is within or close to a site protected under local, national or European legislation. Furthermore, I have not been provided with any substantiated evidence to indicate that there are protected species on the site or in the general area. Indeed, these matters are confirmed by the Council in the appeal questionnaire. I acknowledge that the appeal site is overgrown and in a rural location, but these factors alone are not determinative of the presence of protected species.
17. I note the guidance provided in Circular 06/2005 on Biodiversity and Geological Conservation, in particular paragraph 99 relating to the conservation of species protected by law. This suggests that surveys should only be undertaken where there is a reasonable likelihood of protected species being present and affected by the development. Whilst Policy ES6 of the SDLP indicates that rare species or valuable habitats may well exist on undesignated sites, it suggests a precautionary approach only where the site is indicated to have such an interest.
18. Based on the evidence before me, there is not a reasonable likelihood of protected species or unidentified valuable habitats on or near the appeal site. I acknowledge that Policy ES6 of the SDLP requires all new development to conserve and enhance the natural environment. However, in this case compliance with this policy can be achieved via an appropriately worded condition. Accordingly, I am unable to conclude that the development would have an unacceptable effect on biodiversity on the site and find no conflict with Policy ES6, subject to a suitably worded condition.

Conclusions

19. Notwithstanding my conclusions with regard to the effect of the development on biodiversity, I find harm in terms of the location of the development and the conflict with the Council's planned strategy for growth across the district. For these reasons, I conclude that the appeal should be dismissed.

J Moss

INSPECTOR