



Appeal Decision

Site visit made on 1 October 2019

by J Gibson BUEP MPIA

an Inspector appointed by the Secretary of State

Decision date: 3 January 2020

Appeal Ref: APP/P1615/W/19/3233023

Clays Farm, Clays Road, Sling, Coleford GL16 8LJ

- 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 Mrs Pam Cullis, Mr Malcolm Ball and Mr James Pickett against the decision of Forest of Dean District Council.
 - The application Ref P0878/18/OUT, dated 7 June 2018, was refused by notice dated 11 January 2019.
 - The development proposed is an outline application (with all matters reserved) for the erection of two self-build detached dwelling units (one of which would be designed to meet the needs of an elderly and/or disabled person).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The planning application was in outline with all matters reserved. I have had regard to Plan A (Rev B, dated Dec '18) and Plan B (Rev B, dated 10.12.18), but have regarded all elements of these drawings as indicative.
3. The description of development in the above heading has been taken from the Council's decision notice. The description was changed during the assessment process of application reference P0878/18/OUT with agreement from the appellants to more accurately reflect the development proposed.

Main Issue

4. The main issue is whether the proposed development would provide a suitable location for housing, with regard for the character and appearance of the surrounding area and the settlement strategy under the Forest of Dean District Core Strategy (adopted 23 February 2012) (CS) and Allocations Plan (adopted June 2018) (AP).

Reasons

5. The appeal site forms part of the former agricultural holding known as Clays Farm. Clays Farm includes an existing dwelling and ancillary buildings which are wholly contained within the defined settlement boundary for Sling. The developed portion of Clays Farm and associated garden area is physically separated from the appeal site by an internal fence. The appeal site sits wholly outside the defined settlement boundary, forming part of the open countryside and is unencumbered by any buildings or structures.

6. There is no dispute between the parties that under the CS and AP the appeal site falls outside of the defined settlement boundary for Sling, and that the proposed development would therefore result in the creation of two “market” dwellings within the open countryside. However, the appellants still contest that the relationship between the appeal site and the developed portion of Clays Farm is such that it should be treated as though it formed part of the Sling settlement pattern. The Council acknowledge that the proposed development of the appeal site could not reasonably be considered isolated under Paragraph 79 of the National Planning Policy Framework (the Framework), but would still harm the existing character and appearance of the site and surrounding area, eroding the defined settlement boundary and harming the open rural setting along the southern extent of Sling.

Character and appearance

7. From the street scene, the appeal site does present a distinctly different appearance compared to the developed portion of Clays Farm. The existing Clays Farm dwelling and surrounding garden area achieve a residential appearance consistent with the wider settlement of Sling, appearing well maintained, with prominent domestic buildings, and a stone and brick front boundary wall. In contrast the appeal site appears well vegetated, due to the existing hedge and wired post fencing along the front boundary and the dense vegetation towards the rear, achieving an open and attractive rural setting characteristic of the grassed paddocks and hills beyond it to the south.
8. Reinforcing these strong rural characteristics are the Council’s site visit photos which show the appeal site overgrown and unkempt, fenced off from the garden area associated with the existing dwelling. During my site visit I observed that the grass had been cut and a small garden bed established to emphasise the relationship with the existing Clays Farm dwelling. Despite this, in my judgement the character and appearance of the appeal site still shares greater similarities with the attractive and open rural setting to the south. Collectively these factors serve to create a clear delineation between the built up areas within the defined settlement boundary and the open countryside, with the appeal site serving as an integral buffer. The introduction of two “market” dwellings on the appeal site would therefore unduly extend the built footprint of Sling, deviating from the defined pattern of development under the CS and AP and harming the open rural characteristics of the countryside.
9. Accordingly, the appeal proposal conflicts with Policies CSP.1 and CSP.4 of the CS (adopted 23 February 2012), Policies AP 1 and AP 4 of the AP (adopted June 2018), and Paragraphs 127 of the Framework with respect to character and appearance. These policies seek, amongst other things, to ensure that new development protects the character and appearance of the open countryside.

Housing and settlement strategy

10. Policy CSP.4 relates to the development patterns of settlements and generally seeks to ensure that new development occurs within the existing settlement boundaries of towns and villages, to achieve a sustainable pattern of development and to protect the character and appearance of the open countryside. Although some small scale change is anticipated in “service villages” such as Sling under Policy CSP.16, these are generally expected to occur within defined settlement boundaries or on allocated sites in line with the

- core policies. This is emphasised under Policy CSP.5 which relates more specifically to the provision of new housing, noting that priority should be given to development on previously developed land and that no new greenfield sites will be released unless it can be demonstrated that such land is not available.
11. With respect to Policy CSP.5 it is important to note that Sling is subject to an allocated site which provides opportunity for the village to grow and enhance the function and service level of the village in support of nearby communities. No substantive evidence has been provided by the appellant to demonstrate why the allocated site is not adequate to meet the needs of Sling or surrounding communities, and consequently why the proposal on the appeal site is necessary outside of the planned settlement extent and contrary to the settlement strategy for the area. Although the proposal may be considered of a proportionate scale for the function and level of service of the village or to maintain the level of vitality in Sling, it would not reinforce the settlement pattern or the strategy collectively set out in these policies, nor would it justify the harm identified to the character and appearance of the area.
 12. The appellants case strongly relies upon the appeal site being considered previously developed land as defined under the Framework. No such evidence has been submitted demonstrating that the appeal site could reasonably be considered previously developed land in accordance with this definition, nor did it appear as such during my site visit.
 13. Notwithstanding this, if the appeal site were to be considered previously developed land under this definition it would likely be under the clause relating to "*the curtilage of the developed land*" as the appellants argue that it forms part of the usable rear garden for the existing Clays Farm dwelling. However, this would not automatically mean that such land should be developed as noted in the definition itself and in the exclusions which specify "*residential gardens*". Although I do not agree that the appeal site falls within a built up area the contention of the appellants is that the relationship between these areas achieves the same, and as such the appeal site would not accord with the Framework definition. I am therefore satisfied that the appeal site represents undeveloped greenfield land.
 14. On this basis, the proposed development of the appeal site would fundamentally conflict with the principle of making effective or efficient use of land, which under the CS, AP and the Framework seeks first and foremost to utilise previously developed or brownfield land. The Council's CS and AP, consistent with the latest version of the Framework, includes criteria which allow development to occur within the open countryside. However, having reviewed the relevant policies I am not satisfied that any such exemptions would appropriately apply to the proposed development.
 15. The appellants draw attention to a number of previous decisions by the Council, Inspectors and the Court of Appeal. The full details of these cases have not been provided, but generally serve to try and support the appellants' interpretation of the relevant policies under the CS as it relates to development on the edge of settlements, and the interpretation of the Framework. I have considered these cases based on the information provided and am satisfied that they are not wholly comparable to the circumstances which are being considered under this appeal, in part because they predominantly relate to previously developed land. I have therefore attributed limited weight to these

decisions. Notwithstanding this, I have considered this appeal on its own merits based on the evidence before me.

16. Accordingly, for the above reasons the appeal site would not be a suitable location for two self-build "market" dwellings as they would harm the character and appearance of the surrounding area and the settlement strategy under the CS and AP. It would therefore conflict with Policies CSP.1, CSP.4, CSP.5 and CSP.16 of the CS (adopted 23 February 2012), Policies AP 1 and AP 4 of the AP (adopted June 2018), and Paragraphs 78, 117, 118(c) and 127 of the Framework. Policies CSP.1, AP 1 and AP 4 collectively seek, amongst other things, to support the core policies of sustainable development as detailed under Policies CSP.4, CSP.5 and CSP.16 and by ensuring development achieves high quality design which promotes local distinctiveness and protects the landscape characteristics of the open countryside.

Planning Balance

17. The appellants have noted the age of the CS and whether it effectively reflects the objectives and outcomes under the current Framework which is a material consideration. Comparing these documents I am satisfied that significant weight can still be given to the most important CS policies for determining the application as they remain up to date for this purpose. Specifically, Policies CSP.4, CSP.5 and CSP.16 provide a clear framework which seeks to concentrate the majority of new development within defined settlement boundaries to reinforce and enhance sustainable communities, whilst allowing for opportunities for appropriate development to be located within the open countryside. The recent adoption of the AP supports this.
18. That notwithstanding, the current information available suggests that the Council have the required five year housing land supply with adequate time remaining in the life of the plan to make up any perceived shortfalls. The appellant has not adequately demonstrated that this is not the case.
19. I acknowledge that the proposal would positively contribute towards the districts housing supply, choice and self-build targets, and would be located in close proximity to services and facilities within Sling. However, limited weight has been attributed to these benefits acknowledging the scale of the proposal, the presence of an allocated site for housing within Sling, and the latest evidence suggesting that the Council meet the required five year housing supply. It is therefore my judgement that these considerations do not adequately outweigh the harm to the character and appearance of the open countryside and the conflict with the settlement strategy policies.
20. I have had due regard to the Public Sector Equality Duty (PSED) contained in Section 149 of the Equality Act 2010, as the appellants have identified that one of the dwellings proposed is intended to be occupied by a family member with the protected characteristics of age and disability. Since there is the potential for my decision to affect persons with protected characteristics I have had due regard to the three equality principles set out in Section 149(1) of this Act. Although the dismissal of this appeal may result in a negative impact to this individual by restricting the opportunity to erect a new dwelling close to family and designed to meet their specific needs, it would be proportionate having regard to the legitimate and well-established planning policy aims to protect the character and appearance of rural areas and settlement strategies. Therefore, I confirm that even taken alongside the other considerations and

benefits put forward by the appellants the PSED considerations do not outweigh the harm I have identified.

Conclusion

21. For the reasons given above I conclude that the proposal would result in conflict with the development plan that is not outweighed by the other material considerations in this case. Therefore the appeal should be dismissed.

J Gibson

INSPECTOR