



Appeal Decision

Site visit made on 10 March 2020

by J Gibson BUEP MPIA

an Inspector appointed by the Secretary of State

Decision date: 6 July 2020

Appeal Ref: APP/P1615/W/19/3242630

Oak Tree Villa, Gloucester Road, Upleadon, Newent GL18 1EH

- 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 Dawson & Ruth Lees against the decision of Forest of Dean District Council.
 - The application Ref P0121/19/FUL, dated 26 January 2019, was refused by notice dated 6 June 2019.
 - The development proposed is for the erection of a self-build cottage style dwelling (sited within curtilage of an existing dwelling, and related to the care of its occupant). Improvements to existing vehicular access.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. On 13 February 2020 Government published the 2019 Housing Delivery Test (HDT) results. Parties were given the opportunity to provide comment on the results of the HDT. I have had regard to comments received from both parties in the determination of this appeal.
3. The appellants have submitted an amended plan showing a stable building which they suggest can be erected under an existing planning permission¹. The proposed parking spaces and internal driveway layout have also been altered on the plan to accommodate the stable building location. Based on the documents and information provided on that permission I cannot be certain that it remains extant in perpetuity as suggested. As such, I have determined the appeal based on the plans referenced on the Council's decision notice to ensure no parties are prejudiced.

Main Issues

4. The main issues are:
 - whether the appeal site is an appropriate location for development;
 - the effect of the proposed development on the character and appearance of the surrounding area;
 - the effect of the proposed development on highway safety, with regard for visibility from the proposed access onto Gloucester Road; and

¹ LPA Ref: DF.9962

- the effect of the proposed development on local biodiversity, with regard for the protection of existing vegetation along Gloucester Road.

Reasons

Location of development

5. The appeal site is located in the open countryside outside of any defined settlement. The closest defined settlement to the appeal site is Upleadon. Spatially and physically the appeal site does not relate well to the settlement of Upleadon and appears remote in the countryside. The surrounding area is typically rural in character with a sporadic ribbon of residential development along Gloucester Road on spacious plots of land, framed and interrupted by open paddocks and agricultural land. Irrespective of whether the appeal site constitutes an isolated location for homes in the countryside or not, it is nonetheless remote from the main population centres.
6. Policies CSP.4 and CSP.5 of the Forest of Dean District Core Strategy (CS) (adopted February 2012) are 'core policies' which collectively set out the Council's settlement strategy for new development. Policy CSP.4 focusses new development within existing settlement boundaries. Although the policy would enable some development outside of settlement boundaries, this proposal would not meet the specified exceptions in Policy CSP.4.
7. Policy CSP.5 emphasises the need to direct housing towards allocated sites within 'towns', 'large villages' and specified 'groups of villages' where there is greater availability of and accessibility to employment opportunities and local services. The appeal site is not allocated, and would therefore represent 'windfall' development. Upleadon is described in the CS as a 'small village' with few local services/facilities and very limited opportunity for additional development. Policy CSP.16, which supports Policy CSP.5, emphasises that in small villages the settlement boundary is a key determinant, and the appeal site lies outside of the settlement boundary for Upleadon. As such it would not accord with Policies CSP.5 or CSP.16. Whilst Policy CSP.5 gives priority to previously developed land as well, this alone would not be sufficient to justify the proposed development and must be considered in relation to the overarching settlement strategy of the CS.
8. Policy CSP.16 indicates that some villages have greater capacity for new development than others, bearing in mind the specific role and function of each village towards maintaining a sustainable settlement pattern. The closest categorised 'town' to the appeal site is Newent which has the services/facilities necessary to support daily needs. Although short trips to Upleadon and local bus services would be relatively safe for pedestrians and cyclists, the remoteness of the appeal site and the distance to settlements such as Newent would lead to an over reliance on private vehicle transport over more sustainable modes and increase the travel pattern of future occupants. Whilst I note there are local bus services within walking distance of the appeal site, the services run infrequently and would be unlikely to supplement the daily travel needs of future occupants. These considerations further highlight that the proposed development would fail to maintain a sustainable settlement pattern, reduce travel patterns, promote sustainable modes of travel, reinforce the defined settlement pattern and the individual role of each village.

9. The appeal decisions referenced by the appellants differ from the appeal proposal on a number of grounds, for example the housing supply status at the time, spatial/physical relationship to nearby settlement boundaries, the hierarchical function of and number of services/facilities in those settlements, scale of proposals and subsequently the degree of benefits and harm identified. As such these decisions are not directly comparable, and in any event I have determined the appeal before me on its own merits.
10. Accordingly, the appeal site would not be an appropriate location for the development. It conflicts with Policies CSP.1, CSP.4, CSP.5 and CSP.16 of the CS, Policies AP.1 and AP.4 of the Allocations Plan (AP) (adopted June 2018), and Paragraphs 8, 127 and 170 of the National Planning Policy Framework (the Framework). These policies collectively seek, amongst other things, to encourage new development to occur within defined settlements to achieve sustainable patterns of development which protect the open countryside and limit the need for travel. Reference to Paragraph 8 of the Framework was taken from the Council's character and appearance reason for refusal as it is more relevant to this main issue.

Character and appearance

11. The appeal site is a large rectangular property running parallel along Gloucester Road. It forms an open garden area for Oak Tree Villa which is a two storey dwelling located south of the site. The appeal site boundaries are lined with hedgerows and a regular interval of trees along the road frontage which overhang Gloucester Road. The spacious nature of the appeal site, the vegetated property boundaries and overhanging trees along Gloucester Road positively complement the prevalent rural character and appearance of the surrounding landscape.
12. Beyond the appeal site is a small progression of sporadic residential dwellings with spacious and verdant qualities similar to the appeal site. This built form generally appears incidental to the surrounding rural landscape which frames these sites. The surrounding rural landscape comprises of open paddocks and agricultural land, typical of this remote open countryside location, visible along the full length of Gloucester Road and through the appeal site. The proposed dwelling by virtue of its height, scale and bulk would unduly erode the spacious qualities of the appeal site and introduce a denser pattern of residential development. This would harm the open characteristics of the surrounding rural landscape and would appear overly urban within this context.
13. The appellants have described the appeal site and surrounding pattern of development as having a 'wayside cottages' character and appearance. However, the Landscape Supplementary Planning Document (SPD) does not define the concept of 'wayside cottages' or identify this as a distinctive characteristic of this area. I have therefore based my assessment on the substantive evidence provided and on my observations during my site visit.
14. I note also the appellants have referred to a planning permission which allows a stable building with vehicular access to be erected on the appeal site². However, even if a stable building can be erected on the appeal site it would not have the same visual prominence as the proposed dwelling nor appear out

² Planning Permission Reference: DF.9962, dated 22.10.92

of keeping with the rural character of the area. As such the nature of the fallback holds little weight in this regard.

15. Accordingly, the proposed development would harm the character and appearance of the surrounding area. It conflicts with Policy CSP.1 of the CS, Policies AP.1 and AP.4 of the AP, and Paragraphs 127 and 170 of the Framework. These policies seek, amongst other things, to ensure that development is of a high quality design that takes account of the local character of the surrounding landscape and environment setting and protects the positive features which contribute to them.
16. As the Council has not indicated which paragraphs of the Planning Practice Guidance (PPG) they find conflict, I have not examined this any further. Nevertheless, I am satisfied that the Framework already addresses this matter. Reference to Paragraph 8 of the Framework was omitted as it more appropriately related to the determination of whether the appeal site was an appropriate location for the development. Reference to Paragraph 170 of the Framework has been included from the Council's first reason for refusal as it relates more closely to the Council's character and appearance assessment for determination of this subject.

Highway safety

17. The Council has raised concerns with the safety of the proposed access arrangements for the appeal site with specific regard to the visibility lines of users exiting the site.
18. The appellants have submitted the results of an automatic traffic count and speed survey of Gloucester Road as part of their appeal response to the issue of highway safety. This information was not provided during the application process and indicate based on the traffic characteristics along Gloucester Road that a lesser visibility line than originally specified by the Council would be justified. I note that the Highway Authority has agreed to the proposed length and alignment of the visibility lines based on this data, subject to this visibility line remaining unobstructed amongst other suggested conditions.
19. In my view, the evidence provided by the appellants indicates that clear visibility lines could be achieved within the verge of the road reserve. This is supported by my observations during my site visit. Whilst I note that a small section of hedgerow is proposed to be removed to facilitate the access design, and some maintenance of the hedgerow within the road verge would be required to achieve a clear line of sight along the frontage. However, I do not share the Council's view that this would be to such an extent that it would require larger sections of the hedgerow and trees to be removed to the detriment of the local character and appearance of the area.
20. As such, I am satisfied that the access for the proposed development could achieve the necessary visibility lines to accommodate safe egress from the appeal site. The access would therefore satisfy Paragraphs 108(b) and 109 of the Framework, which seek to achieve safe and suitable access to prevent unacceptable impacts on highway safety.

Local biodiversity

21. The appeal scheme includes the removal of a small section of hedgerow either side of the proposed access to achieve the necessary visibility. Some

replacement hedgerow planting is proposed but is limited as the majority of the existing hedgerows and trees would be retained. As such I do not share the concerns of the Council that the limited removal of a small section of hedgerow would harm local biodiversity to such a degree that it would warrant a reason for refusal.

22. The appellants' baseline ecological assessment suggests that mitigation measures would improve the local biodiversity. Conditions could appropriately be imposed to secure such outcomes.
23. The appellants further suggest that the hedgerow and trees along the frontage of the appeal site could be removed in accordance with the planning permission granted for the stable building and new access³. If this permission remains extant, then the extent of works under this appeal proposal would be preferable to the scope potentially allowed under that permission.
24. As such, I am satisfied that the proposed development would not unacceptably harm local biodiversity. It would accord with Policy CSP.1 and CSP.2 of the CS, Policy AP.7 of the AP, and Paragraphs 170 and 174 of the Framework. These policies seek, amongst other things, to protect the natural environment and enhance local biodiversity. Reference to the PPG has been omitted as no specific paragraphs have been identified for consideration and the Framework already addresses this matter.

Other Matters

25. The appellants have questioned the weight that can be attributed to the CS policies based on its age and consistency with the policies in the Framework. I am satisfied that significant weight can still be given to the most important CS policies, and those under the AP, to the determination of this appeal as they remain up to date for this purpose. Specifically, Policies CSP.4 and CSP.5, supported by CSP.16, provide a clear strategy which seeks to concentrate the majority of new development within defined settlement boundaries to reinforce and enhance sustainable settlement patterns and functions, whilst allowing for opportunities for appropriate development to be located within the open countryside. The Framework provisions similarly support such an approach.
26. The appellants also contest the Council's stated five year deliverable housing land supply. The 2019 HDT results show that 89% of the district's required homes have been delivered and that there has been a gradual under delivery of homes for the last three years. Whilst the Framework sets out requirements for the Council to address this under delivery⁴, the current circumstances would not trigger the presumption in favour of sustainable development⁵.
27. I acknowledge that the proposal would positively contribute towards the district housing supply, choice and self-build targets, and would benefit from a local bus service to Newent which is classified as a 'town' with greater offerings of services/facilities. However, these suggested benefits would be limited by the small scale nature of the proposal. Significant harm would arise from the location in the open countryside, the limited services/facilities and employment opportunities in Upleadon, and the primary reliance of the proposal on private

³ Planning Permission Reference: DF.9962, dated 22.10.92

⁴ Paragraph 75 of the National Planning Policy Framework

⁵ Footnote 7 for Paragraph 11(d) of the National Planning Policy Framework

vehicle transport given the infrequent nature of local bus services to larger settlements.

28. Whilst I recognise the importance attributed to small sites and their contribution towards meeting the housing needs of an area, Paragraph 68 of the Framework prefaces that great weight should only be attributed to windfall sites where located within existing settlements. Similarly, Paragraph 118 of the Framework makes clear that the use of previously developed land must be suitably located to afford substantial weight. It is therefore my judgement that these considerations, along with my conclusions on highway safety and local biodiversity, do not outweigh the conflict with the Council's settlement strategy policies and the identified harm to the character and appearance of the surrounding area.
29. 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 the proposed dwelling is intended to be occupied by a family member with the protected characteristic of age. Since there is the potential for my decision to affect persons with a protected characteristic 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, it would be proportionate having regard to the legitimate and well-established planning policy aims to support sustainable settlement strategies and protect the character and appearance of rural areas. 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

30. For the reasons given above I conclude that the appeal should be dismissed.

J Gibson

INSPECTOR