
Appeal Decision

Site visit made on 15 September 2020

by L Page BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th September 2020

Appeal Ref: APP/P1615/W/20/3254461

Land to the east of Harpers Close, Coalway Road, Coleford GL16 7FG

- 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 Mr Paul Heal of Ernest Heal & Sons (Construction) Limited against the decision of Forest of Dean District Council.
 - The application Ref P1685/19/OUT, dated 22 October 2019, was refused by notice dated 18 December 2019.
 - The development proposed is outline application for the erection of 5 dwellings, construction of a vehicular access and associated works.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The planning application was submitted in outline form with all matters reserved for future approval(s). From the description of development, it is clear that the quantum of development being sought is for five dwellings. The appeal is determined on this basis, treating the submitted site plan as illustrative only, in so far as it indicates a possible layout for the development.
3. The Council's reason for refusal relating to biodiversity has been withdrawn under the appeal and is no longer contested between the parties. The information submitted by the appellant appears robust and consequently the issue is not determinative under the appeal.

Main Issues

4. The main issues are:
 - (a) whether the proposal is in the open countryside and in an appropriate location for market housing; and
 - (b) the effect of the proposal on the character and appearance of the area.

Reasons

Location

5. The site is located on land to the east of Harpers Close, Coalway Road, which is outside of defined settlement boundaries as shown on the Proposals Map associated with the Forest of Dean Core Strategy 2012 (CS) and Allocations Plan 2018 (AP).

6. In this context, Policy CSP.4 of the CS states that areas outside defined settlement boundaries will be treated as part of the open countryside. The site is therefore in the open countryside for the purposes of this appeal. The policy goes on to state that most development will be expected to take place within existing defined settlement boundaries with limited exceptions for some other specific forms of development, including affordable housing for local persons and building conversions and (rarely) new buildings for employment uses on the edge of settlements. Consequently, in considering that the proposal is for market housing, it does not meet any of the specific policy exceptions and would represent fundamentally unacceptable development within the open countryside.
7. Notwithstanding the various other strands of sustainable development under Policy AP.1 of the AP, the proposal would not integrate with the prevailing pattern of development by virtue of its location outside of defined settlement boundaries and would not therefore amount to sustainable settlement expansion. Furthermore, any accessibility credentials of the site in the context of nearby settlements would not make development in the open countryside otherwise acceptable under Policy CSP.4 of the CS.
8. Even if the adjoining scheme was partially outside defined settlement boundaries when it was granted planning permission, it is now within them for the purposes of the development plan. Decisions should be made based on evidence at the time and under the development plan as it stands today the proposal is outside of defined settlement boundaries and the potential planning history of the adjoining scheme does not change this fact.
9. Allocations for development in the open countryside would be part of the development strategy for the area pursuant to the sustainable expansion of settlements and the delivery of development to address carefully identified growth needs. These allocations would come forward as part of the plan making process and be supported by the the revision of defined settlement boundaries therein. This is a different proposition to speculative applications for proposals in the open countryside that do not necessarily contribute to the development strategy or sustainable expansion of settlements in the same way, something Policy CSP.4 of the CS controls.
10. Paragraph 79 of the National Planning Policy Framework (the Framework) makes clear that planning policies and decisions should avoid the development of isolated homes in the open countryside unless very special circumstances exist. It is a very specific matter within the wider ambit of development in the open countryside. It is noted that some of the wording associated with Paragraph 79 regarding isolated homes and special circumstances may have been conflated with development plan policies regarding development in the open countryside more generally.
11. Notwithstanding, the thrust is largely the same, insofar as under development plan policy, in order for proposals to be acceptable in the open countryside, they would need to meet specific exceptions. The proposal is for market housing, which is a form of development that does not comprise a specific exception under development plan policy. This is irrespective of Paragraph 79 of the Framework, the issue of isolated homes, and special circumstances therein. This is in essence what some of the appellant's appeal case references demonstrate.

12. Policy AP.4 of the AP controls the design of development, that is development considered acceptable in principle and where it is logical to consider the appropriateness of any given design solution. It is not therefore relevant to the assessment of whether the location is fundamentally acceptable in regards the area's development strategy. Consequently, it is dealt with more appropriately within the other main issue of character and appearance. The same rationale applies to CSP.1 of the CS and Paragraph 127 of the Framework, which also deal with design and other matters of detail not strictly linked with development strategy.
13. Section 5 of the Framework deals with the delivery of homes and relates to development strategy so is relevant when considering the location of development. Section 15 of the Framework relates to conserving and enhancing the natural environment, part of which is respecting defined settlement boundaries pursuant to reducing development pressures on the open countryside and is therefore relevant in the same context. Policy CSP.5 of the CS sets out the general expected location of new housing in the area, explaining that priority will be given to delivery on previously developed land and sites identified for housing in the development plan. Citation of the policy is relevant as it demonstrates that the proposal does not align with the strategic priorities of the area insofar as it is not located on previously developed land or otherwise identified for housing. Policy CH2 of the Coleford Neighbourhood Development Plan 2018 (CNDP) is relevant insofar as it demonstrates that for the purposes of the CNDP housing is focussed within defined settlement boundaries. Policy CH1 of the CNDP, referenced by the appellant, reads in the same context insofar as housing is focussed within defined settlement boundaries and does not help justify the proposal.
14. Paragraph 213 of the Framework makes clear that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the Framework. Due weight should be given to them, according to their degree of consistency with the Framework. The appellant has not demonstrated how the policies are substantively inconsistent with the Framework so as to affect their weight in the decision making process, relying solely on timescales alone. In the absence of such evidence the policies carry full weight for the purposes of this appeal.
15. Overall, the proposal would be located outside of defined settlement boundaries, in the open countryside and would not be an appropriate location for market housing. Consequently, the proposal would be in conflict with Sections 5 and 15 of the Framework, Policies CSP.4 and CSP.5 of the CS, Policy AP.1 of the AP, and Policy CH.2 of the CNDP. Among other things, these seek to reinforce existing settlement patterns when delivering development in order to help protect the open countryside.

Character and Appearance

16. The site is located on the southern extent of Coalway Road which links the settlements of Coalway in the east and Coleford in the west. There is a substantial degree of open countryside that separates both settlements and avoids coalescence of an urban mass. Coalway Road runs through the open countryside with residential ribbon development along its northern extent. Its southern extent is much less developed by comparison and characterised by rows of mature trees and smaller groups of dwellings interspersed with fields.

17. Consequently, when looking south from Coalway Road, the area takes on a leafy and open character and appearance compared to when looking north. The site is home to a large Sycamore covered by a tree preservation order¹ and part of an area designated as Coleford Locally Valued Landscape under Policy AP.69 of the AP, defined as an area of largely undeveloped land to be protected from development that would detract from the open setting of Coleford. It is also within an area identified as Green Ring 1 under CNDP Map 10. The open and leafy character and appearance of Coalway Road's southern extent informs the setting of Whitehill Farmhouse, located directly to the north of the site and is a Grade II listed building². Appreciating that all matters of detail are reserved, my assessment of the proposal's effects on character and appearance relate to the fundamental principles of developing the land for housing, notwithstanding its final form. In this context, the proposal would erode the openness of the land in principle terms. This would be irrespective of potential layout and landscaping because the proposal would deliver built form where there currently is none. There would be a fundamental change to the character and appearance of the site that would be at odds with the open setting of the Coleford Locally Valued Landscape designation therein.
18. It is not clear how the large Sycamore tree would be protected under the proposal, because the application was not supported by an arboricultural report to the relevant standards³. Consequently, it is not possible to rely on the sketch provided under the appeal, which is not to the relevant standards, in order ensure that the proposal can be delivered in principle terms. Its potential loss could compound the proposal's effects on openness and without first demonstrating that developing the site is fundamentally compatible with retention of the tree it would not be reasonable to rely on a planning condition.
19. The fundamental change in character and appearance would be apparent when viewed from Coalway Road, which is of significant length. Consequently, views would be appreciable in the locality, not limited to glimpses of an enclosed environment, but from an extensive public vantage point. The protection under AP.69 of the AP is not an embargo on development as the appellant contends, merely a control on development that is not essential and that would have a negative impact. It has not been demonstrated the proposal is essential or that it would not have a negative impact on openness. Paragraph 172 of the Framework relates to specific areas of national protection but does not undermine or remove the applicability of local level landscape designations that may also exist.
20. Policies AP.1 and AP.4 of the AP and Policy CSP.1 of the CS contain environmental dimensions. The proposal negatively effects the openness of the landscape as a component of the environment and consequently they are relevant in this context.
21. Independent of the Council's determination I am required by legislation to give special regard to the desirability of preserving Whitehill Farmhouse and its setting or any features of special architectural or historic interest which it possesses, in accordance with Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

¹ TPO2019 T1

² 1299280

³ British Standard 5837: 2012

22. The setting of Whitehill Farmhouse is informed by the character and appearance of the site and the openness of the southern extent of Coalway Road. However, there is no evidence to suggest that the level of openness contributes to revealing the significance of the heritage asset or that the proposal would not preserve its significance in this context.
23. Overall, the proposal would harm the character and appearance of the area. Consequently, there would be conflict with Section 15, Paragraphs 8 and 127(c) of the Framework, Policies CSP.1 and CSP.2 of the CS, and Policies AP.1, AP.4 and AP.69 of the AP and Policies CC.4 and CNE.1 of the CNDP. Among other things these seek to safeguard the environment from inappropriate development.

Other Matters

24. Whether the Council can demonstrate the level of housing land supply and delivery required by Policy CSP.5 of the CS and the Framework is disputed, but even if there was a substantial shortfall, the contribution made by the proposal and associated benefits as a windfall would only carry moderate weight by reason of its scale. Significant weight would only be attributable on the basis of a much larger proposal, which would have comparatively larger benefits in the context of housing land supply contribution and associated socio economic benefits, such as local builder trade or service footfall, among other things. Consequently, the adverse effects of the development, which carry significant weight due to the primacy of the development plan and up to date policies relating to location of development and effects on character and appearance therein, would significantly and demonstrably outweigh the benefits.
25. The potential absence of other harms associated with the appellant's voluntarily citation of other policies not relied on by the Council, such as those relating to the "Limestone Hills" Landscape Character Area 2, among others, do not otherwise absolve the proposal from meeting the requirements of the policies identified under this appeal and resultant from the Council's reasons for refusal.
26. The support of the owner at Whitehill Farmhouse does not mean the proposal is otherwise acceptable and it has been assessed in accordance with the evidence presented, the development plan and any other material planning considerations. The representations from Coleford Town Council are noted, as are the final comments from the appellant. However, the issues raised by the town council have not changed the outcome of the appeal, where the policy citations provided by the Council were sufficient to warrant dismissal.
27. The site has been identified within the zone of influence for the Wye Valley and Forest of Dean Bat Site Special Area of Conservation. However, as I am dismissing the appeal, the decision would not result in any effects and consequently I have not considered the implications further.

Conclusion

28. For the reasons given, the appeal is dismissed.

Liam Page

INSPECTOR