



Appeal Decision

Site visit made on 25 January 2022

by R C Kirby BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 March 2022

Appeal Ref: APP/C1625/W/21/3278192

1 Daffodil Leaze, Kings Stanley, Gloucestershire, GL10 3QJL

- 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 Joe Jewkes against the decision of Stroud District Council.
- The application Ref S.21/0485/FUL, dated 19 February 2021, was refused by notice dated 7 May 2021.
- The development proposed is conversion of an outbuilding into an independent dwelling.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Both parties were consulted in respect of revisions to the National Planning Policy Framework (Framework). I have taken the comments received into consideration in my assessment of this case.
3. The submitted drawings do not reflect what has been constructed on the site, including the design of the windows, number of rooflights and roofing materials. For the avoidance of doubt, I have based my decision on the drawings considered by the Council, not on what has been constructed.
4. During the course of the appeal further information was sought in respect of the Rodborough Common Special Area of Conservation (SAC). In this regard the appellant submitted a Unilateral Undertaking. This is considered later in this decision.
5. Concern has been raised about the use of the building and the misleading nature of the application. For the avoidance of doubt I have assessed the proposal on the basis that it has been submitted. If there has been any breach of planning control, it is open to the Council to pursue this matter.

Main Issues

6. The main issues in this case are:
 - the effect of the proposal on the Rodborough Common Special Area of Conservation (SAC), and
 - whether the appeal site is suitably located for a new dwelling.

Reasons

Rodborough Common SAC

7. The appeal site lies within 3 km of the Rodborough Common SAC and given this proximity there would be a high probability that future occupiers of the new dwelling would visit the Common for recreational purposes and have a consequential likely adverse impact on the integrity of the site. As such it is necessary for me as the competent authority to conduct an Appropriate Assessment as to the effect of the proposal on the integrity of the SAC.
8. The Rodborough SAC is designated for its calcareous grassland, being the most extensive area of semi-natural dry grasslands in the Cotswolds, supporting a diverse range of species. The Council's Interim Impact Avoidance Strategy for Rodborough Common SAC (IAS) identifies that the SAC site is already under threat indirectly, due, in part, to recreational activity, including through erosion of footpaths and disruption to grazing, particularly by dogs.
9. Although of a limited scale, the proposal would be likely to contribute to further erosion of the Common, and disturbance of grazing through vehicles and dogs. The proposal would either alone or in combination with other residential development in the area, be likely to have a significant effect on the SAC due to the increased recreational pressure that would be placed on it. Mitigation is therefore required to ensure that such pressure is avoided or limited to such a degree that would preserve the integrity of the SAC.
10. The IAS sets out a number of measures to mitigate the impacts of new residential development on the integrity of the SAC, including payment of a financial contribution towards works to increase grazing areas and measures to increase awareness of the issues on Rodborough Common. The IAS sets out that such measures would be secured through S106.
11. The appellant is willing to mitigate the impacts of the new dwelling on the SAC and has submitted a Unilateral Undertaking (UU) which follows a template provided by the Council. However, there are a number of shortcomings with the UU including the absence of a signature, lack of reference to the appeal, inference that the Council has granted planning permission subject to conditions and 'the site' differing to that submitted with the appeal. These issues mean that the obligation set out in the UU could not be delivered.
12. Moreover, a condition requiring that mitigation is secured, as suggested by the Council would defer consideration of mitigation until after a decision had been made. It would be tantamount to securing a planning obligation by condition. I note that the Planning Practice Guidance indicates that a negatively worded condition requiring an obligation or agreement to be entered into before certain development can commence may be appropriate, but it sets that this is where circumstances are exceptional, such as where there is clear evidence that the delivery of the development would otherwise be at serious risk, or that the scheme is complex. The appeal proposal is not a complex scheme and there is no evidence that exceptional circumstances apply to the proposal.
13. Given my responsibilities under The Conservation of Habitats and Species Regulations 2017, and taking a precautionary approach, I find that the absence of a mechanism to secure mitigation against the proposal's impacts on the integrity of the Rodborough Common SAC would result in the scheme having a

significant adverse effect on the integrity of the SAC. This would be in conflict with Stroud District Local Plan (SDLP) Delivery Policy ES6 which amongst other things, seeks to ensure development avoids harm to a SAC. There would also be conflict with the National Planning Policy Framework's (Framework) aims of conserving and enhancing the natural environment.

Location

14. The host property is located within Middledyrd which is defined as a fourth tier settlement within the SDLP. There is no dispute that some of its garden, including the outbuilding, the subject of this appeal is located outside of the settlement boundary. For planning policy purposes, it is located within the countryside.
15. Core Policy CP2 of the SDLP seeks new housing development to take place upon strategic sites or within settlement development limits, acknowledging that limited development could occur outside of these designated areas, provided that they accord with other policies of the Plan. In this regard, within the countryside, SDLP Core Policy CP15 establishes that development will be restricted to a list of stated exceptions. In the absence of evidence to demonstrate otherwise, the proposal would not fall within any of the listed exceptions, and there is therefore conflict with SDLP Core Policy CP15.
16. Although not referred to within the Council's decision notice, my attention has been drawn to Delivery Policy HC6 of the SDLP. This policy supports the sub-division of existing dwellings into two or more self contained residential units, subject to certain criteria being met. Although much of the supporting text to this policy relates to the conversion of houses, criteria 6 of Delivery Policy HC6 makes reference that regard will be had to *'the need to minimise built form through the conversion of any existing outbuildings'*.
17. The supporting text (paragraph 4.49) whilst seeking to discourage residential sub-divisions in the rural areas owing to their relative isolation away from services, recognises that as long as the building does not need any further significant extensions or additions and where the building when subdivided appears almost identical to its pre-conversion form and any alterations are appropriate in character to the locality that such development may be acceptable. There is no reference within the policy, or indeed the supporting text which requires the outbuilding to be in close proximity to the dwelling to qualify for consideration against this policy.
18. In this case, the existing and proposed elevations are the same, and the floor plans are identical with the exception of the car port being referred to as a garage on one of the drawings. The building is of an attractive design, constructed of materials that reflect the local vernacular of the area, and would be served by an existing access. The fencing around the site reflects that nearby and is not intrusive in the wider landscape.
19. Although within the countryside for planning policy purposes, I observed that the building was visually and spatially well related to development nearby, including to the dwellings accessed off Coombe Lane. The outbuilding appears to be part of the village. Whilst there may be domestic paraphernalia associated with an independent residential use, I find that given the close relationship to existing residential development, including Wystendene and the

- outbuildings within the garden of No 1, that a residential use of the appeal site would not appear out of place, out of character, or intrusive in the locality.
20. Moreover, the intended future occupiers would have only a short walk along part of the public right way which forms the access to the site on to Broad Street which runs through the village. Within this road I observed there to be a number of bus stops, from where a bus could be caught to nearby settlements with a wider range of services and facilities than those offered in Middleyard.
 21. Moreover, there is a primary school at Kings Stanley which is a relatively short walk from the appeal site, along with other services and facilities which could serve the day to day needs of the intended future occupiers. These could be accessed on foot along the pavement or by cycle. It would therefore be unlikely that there would be a high reliance on a private car to access nearby services.
 22. Although not raised by the Council, concerns have been expressed about drainage on the site, both surface water and foul water. The appellant has indicated that surface water would be disposed of in the mains sewer but has stated that the disposal of foul sewage is unknown. Were planning permission to be granted for the proposal such matters could be controlled by way of a suitably worded condition to ensure that the development was suitably drained.
 23. In terms of access to new dwelling, this would be along an existing track which is also a public right of way. Both the Highway Authority and the Rights of Way department have raised no objections to the proposal, and on the basis of the evidence before me and the likely number of daily vehicle movements associated with the use, I am satisfied that the proposal would cause no harm to highway safety, including to pedestrians using this part of the Cotswold Way. The granting of planning permission would not negate getting permission from the owner of any land associated with the development.
 24. The proposed dwelling would be a similar distance from nearby occupiers to the host property. There is mature landscaping between the appeal site and Wystendene and a change in levels between the appeal site and the Cedars. In terms of relationships to nearby properties, and in the absence of evidence to substantiate the concerns raised, I am satisfied that the living conditions of nearby occupiers would not be adversely affected by the proposal, including from the use of the access.
 25. I noted that there was some lighting upon the site and security cameras on the building. These appeared to be discretely located and did not appear to be out of keeping the locality. Moreover, external lighting could be controlled by planning condition in the event that the appeal was allowed.
 26. Having regard to these matters I find that the appeal site is not isolated from services and the proposal would utilise an existing building, which could be suitably drained and accessed. I conclude therefore that the appeal site is suitably located for a new dwelling in accordance with SDLP Delivery Policy HC6 Core Policy CP1, Core Policy CP2 and Core Policy CP3 which collectively seek sustainable development, limiting growth in the countryside unless certain circumstances apply. The proposal would support the Framework's aims of making effective use of land and supporting services in a nearby village.

Conclusion

27. Although I have found that the appeal site is suitably located for a new dwelling, the absence of a mechanism to secure mitigation for the Rodborough Common SAC means that the proposal must fail. The appeal is therefore dismissed.

RC Kirby

INSPECTOR