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# Appeal Decision

Site visit made on 4 January 2023

**by K Stephens BSc (Hons) MTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 27<sup>th</sup> January 2023**

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**Appeal Ref: APP/C1625/W/22/3306127**

**Land at Millend, North Nibley, Gloucestershire GL11 6EF**

- 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 R Hale against the decision of Stroud District Council.
  - The application Ref S.22/0751/FUL, dated 1 April 2022, was refused by notice dated 13 June 2022.
  - The development proposed is described as 'Removal of existing agricultural building and provision of 2.no dwellinghouses.'
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## Decision

1. The appeal is dismissed.

## Procedural Matters

2. To support the appeal and address the fourth reason for refusal relating to noise from the nearby pumping station, the appellant has submitted a Noise Assessment<sup>1</sup>. The Council is satisfied with its findings that noise, whilst audible as a steady background noise at the site, was of a level not sufficiently unreasonable as to require additional mitigation. As a result, the Council confirms that the fourth reason for refusal has been overcome. From the evidence before me, and what I heard on site, I have no reason to take a different view.

## Main Issues

3. In light of the above, the main issues in this appeal are:
  - Whether the proposal would be a suitable location for housing with regard to local and national policies,
  - The effect of the proposed development on the character and appearance of the area,
  - The effect of the proposed development on highway safety with particular regard to visibility and parking, and
  - The effect of the proposal on flood risk.

## Reasons

*Whether a suitable location*

4. The appeal site comprises a small agricultural parcel of land with an agricultural building, which I saw housed some livestock. The site is located within a small

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<sup>1</sup> Report A1920 ROB, dated 17 August 2022 - prepared by Ion Acoustics Ltd

hamlet amongst a cluster of dwellings and farmsteads that occupy different levels of the slope of the valley leading down to Dovern Brook. The site is also located within the Cotswolds Area of Outstanding Natural Beauty.

5. Policy CP2 of Stroud District Local Plan<sup>2</sup> (the Local Plan) sets out the strategy for delivering new housing development. Most development will be concentrated in a series of strategic locations where housing, jobs and necessary infrastructure can be coordinated and delivered together. Strategic sites are identified at principal settlements and smaller scale development is expected to come forward within settlement boundaries or development limits of settlements identified in Policy CP3.
6. The settlement hierarchy in Policy CP3 ranks settlements in four tiers according to their size and their range of services and facilities in order to promote sustainable patterns of development, including reducing the need to travel. Very small settlements that are not mentioned in the settlement hierarchy are treated as countryside for the purposes of the development plan.
7. North Nibley is listed as a third tier “accessible settlement with limited facilities.” Whilst the address of the appeal site is North Nibley, the site is located approximately 1 kilometre away from North Nibley and outside its settlement boundary. Hence the appeal site is in the countryside for the purposes of the development plan and application of the Council’s housing policies.
8. Policy CP15 limits housing development in the countryside to that which fulfils number of criteria, namely sustainable farming or forestry; that which promotes enjoyment of the countryside or support the rural economy through employment, sport, leisure or tourism; is a ‘rural exception’ site would meet an identified local need; would be enabling development to maintain a heritage asset; would be a replacement dwelling, or would involve essential community facilities. The proposal is for the erection of 2 detached 3-bedroom market dwellings, or cottages, following the demolition of the existing agricultural building, and would not fulfil any of the policy criteria.
9. The Council’s settlement strategy is broadly in accordance with the National Planning Policy Framework (the Framework) which states that, to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities and that planning policies should identify opportunities for villages to grow (paragraph 79).
10. I accept that the site is not ‘isolated’ development in the countryside, because the site is adjacent to other properties and dwellings within the cluster of the hamlet. Nor would the proposal extend development into an open field. Nonetheless, in policy terms the site is clearly located outside North Nibley and its settlement boundary. Furthermore, the proposal does not fulfil the criteria for the types of development considered suitable for a countryside location, as set out in Policy CP15. Therefore, the site is not a suitable location for new housing and the proposal would undermine the Council’s settlement strategy. Accordingly, it would be contrary to Local Plan Policies CP2, CP3 and CP15.

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<sup>2</sup> Adopted November 2015

### *Character and appearance*

11. The hamlet has a mixture of properties, largely traditional in form and design, but displaying a variety of styles, sizes and designs, and some have been extended over time. The site slopes and, approaching from the south in particular, the proposed dwellings would be visually prominent.
12. The two proposed dwellings would be of a similar size and design to each other. Both north (rear) and south (front) elevations of each dwelling would display a somewhat random array of windows. The plans show that the front and rear elevations would have some 7-8 windows each, all of different sizes and designs, with seemingly no window the same on each elevation. The south elevations would each have 3 different dormers and a gable window, with further different dormer windows designs on the north elevations. This would be a considerable number of windows and variety on a single 'cottage' property. Furthermore, the central gable features would be overly wide compared to steeper traditional gables. As a result, the windows in the apex of the gable are unduly large and also bigger than the windows beneath them. In addition, due to their variety and locations, the windows on the front elevations would visually compete with the position and size of the front door, disrupting the legibility of these elevations.
13. The lack of a regular alignment of horizontal or vertical elements and no clear hierarchy of windows sizes, together with numerous different windows styles and designs, results in an unsuccessful and uncomfortable jumble of window sizes, designs and placements across the elevations. This would give the properties a disjointed, incohesive and visually discordant appearance that would detract from the surrounding properties of the hamlet and harm the character and appearance of the area.
14. The proposal would not heed the design guidance in the Council's 'Residential Design Guide' Supplementary Planning Guidance<sup>3</sup> (the SPG). This states that the appearance of a building can be influenced by the proportion and disposition of door and window openings, and that the placing of openings can either reinforce or destroy the visual emphasis of an elevation. It goes on to advise that openings should be grouped in a legible pattern, with a simple horizontal and vertical grid being the most obvious. As explained above, the proposed fenestration would destroy the elevations.
15. The appellant has based the design of the dwellings on historic examples of Cotswold cottages, with an informal arrangement of fenestration. This is at odds with the appellant's own suite of photographic examples of Cotswold cottages. While the examples show a variety of designs and styles of properties and windows, each example displays an overall legible pattern, rhythm and harmony of fenestration.
16. In conclusion, the proposed fenestration would amount to poor design that would result in the dwellings being visually discordant within the cluster of buildings in the hamlet and would cause harm the character and appearance of the area. Accordingly, the proposed development would be contrary to Local Plan Policies CP8 and CP14(5). Collectively, these seek to ensure new housing development is, amongst other things, of a high quality that protects, conserves or enhances its environment and that an appropriate design and

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<sup>3</sup> Adopted November 2000

appearance of development is achieved that respects the surroundings and built environment.

*Highway safety*

17. Millend Lane is narrow and steep and close to the bottom of the valley, where the road bends and crosses the brook. Access would be via the existing site access, off Millend Lane. It would be shared by the two dwellings and the driveway would then branch out to each property.
18. The access is currently used by agricultural vehicles, which the Highway Authority considers would equate to traffic movements from one dwelling. Therefore two dwellings would see a potential increase in traffic using the access. However, the appellant considers that the frequency and number of vehicles, including heavy tractors, would be reduced and this would see an improvement and reduction in overall traffic movements, which can currently occur without restriction.
19. The Highways Authority has not objected per se, but deferred its judgement until further details of parking and visibility had been submitted. It has not, however, highlighted any obvious or inherently dangerous aspect of the proposal or its access arrangement. The Council did not request additional highway information because it considered there were other fundamental failings with the application. However, the appellant has not submitted any substantive additional information in support of his appeal.
20. There are hedgerows either side of the access set back behind a narrow verge, but no pavements. From my observations of traffic using the lane, albeit a snapshot in time, and the nature and alignment of the lane, I found that visibility in either direction was possible to allow adequate exit and egress onto the lane. There is also an informal passing place on the bend at the entrance to the neighbouring pumping station. From the limited evidence before me, I am satisfied that highway safety, arising from the geometry of the access itself and visibility, would not be significantly compromised.
21. According to the Council, a 3-bedroom dwelling would require 2 parking spaces. The plans show that each dwelling would have an integrated single garage and undesignated space is shown in front for parking and turning. However, the Highways Authority does not count garages as parking spaces because garages tend to be used for general household storage.
22. The submitted plans do not show parking or turning areas marked out and to show that each dwelling would have 2 spaces without relying on the integral garages. Nor is there any vehicle-tracking information to show where and how vehicles would turn on-site to ensure they could leave the site in a forward manner. Looking at the plans and site layout, a car parked in front of the garage at Cottage 1 would likely impede the shared access and driveway for occupiers wanting to get to and from Cottage 2.
23. As the application is in full, not outline, the development would have to be built in accordance with the submitted plans, if the appeal was allowed. Therefore, I am not satisfied that adequate parking provision and on-site turning space can be achieved for both properties without possible implications for the layout shown on the submitted plans and any knock-on effects this might have for the

location of the 'Clearwater PTP'. Hence I cannot impose a planning condition requiring submission of their details later on.

24. To conclude on this main issue, whilst I am satisfied that there would be no significant harm to highway safety arising from the access and visibility, I am not satisfied that adequate on-site parking and turning can be achieved for each dwelling, that would allow all vehicles to exit in a forward manner. Accordingly, the proposal would be contrary to Local Plan Policies CP4(3) and EI12. These collectively seek to create safe streets, and that parking is provided in accordance with the Council's adopted standards.

#### *Drainage and flood risk*

25. The site occupies elevated ground above the Doverte Brook, which lies to the south of the site in the bottom of the valley. According to the Council the site itself is not within Flood Zone 1 or 2, but land to the south is an area at risk of surface water flooding in 1 in 30 and 1 in 100-year events.
26. Local Plan Policy ES4 requires new development to demonstrate where appropriate, amongst other things, that the development will be safe and will not increase flood risk elsewhere, and maximises opportunities to reduce flood risk. New development is also expected to incorporate appropriate Sustainable Drainage measures (SuDS). In areas with known surface water flooding issues, appropriate mitigation and construction methods will be required.
27. According to the application form, foul drainage will be discharged to a package treatment plant and surface water would be discharged to a soakaway. Details of these are scant.
28. In its appeal statement the Council has not elaborated on why the submitted information is insufficient. Equally, the appellant has not submitted any new information to support his appeal and demonstrate that the drainage proposals for a sloping site would not increase the risk of flooding elsewhere, even if the site itself is not susceptible to flooding. A 'Clearwater PTP' is shown on the plans, but there is no information about this, what it would do, or how and who would maintain it.
29. Whilst drainage matters can be conditioned, in this instance I am not satisfied that sufficient information has been submitted to satisfactorily demonstrate that the proposal would not lead to increased flood risk elsewhere, particularly as it sits on a sloping site with a brook running at the bottom of the valley prone to flood risk. Accordingly, the proposal would be contrary to Policy ES4.

#### **Planning Balance and Conclusion**

30. The Council can demonstrate it has more than a 5 year supply of deliverable housing land and planning law<sup>4</sup> requires that applications for planning permission are determined in accordance with the development plan unless material considerations instance otherwise.
31. In this case, I have found the proposal would be fundamentally contrary to the most important policies against which to assess the proposal, namely the location of housing. I have also found there would be harm to the character

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<sup>4</sup> Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.

and appearance of the area. There is insufficient information for me to be satisfied that the proposal could be adequately drained and not cause an increased risk of flooding elsewhere or that the site can be provided with adequate parking and turning.

32. The appellant considers that other policies in the development plan are met. It is not uncommon for there to be some tension if a proposal accords with some policies in the development plan but not others. I acknowledge that there is some local support for the proposal and that the cessation of agricultural activities on the site could see some benefits with the reduction in the amount and frequency of farm traffic and uncontrolled activities. Even if the site met the definition of previously developed land set out in the Glossary in Annex 2 of the Framework it would not fulfil the exceptions of Policy CP15. Furthermore, whilst the efficient use of land is encouraged in the Framework this does not necessarily trump other matters.
33. I am also led to understand there have been previous agricultural-related applications refused at the site. I have not been furnished with the full details of these. Nor have I been presented with any substantive evidence that the existing agricultural use of the land, and any activities on it, is a 'bad neighbour' to residents, or that the appellant's agricultural activities and business are in jeopardy if he cannot develop the site's agricultural potential or erect two dwellings on the land.
34. Even if the existing farm building was capable of conversion, such a proposal would be subject to relevant development plan policies or other planning legislation independently of this appeal. A residential conversion would still need to be drained and accessed. It is up to the appellant to pursue a conversion if he wishes, but alternative uses for the land or building are not before me as part of this appeal. I have not been made aware of any extant consents for the building or land that would represent a fallback.
35. Alone or in combination, these matters do not amount to material considerations of substance or weight to justify allowing harmful development as a departure from the development plan as a whole.
36. For the reasons given above I conclude that the appeal should be dismissed.

*K Stephens*  
INSPECTOR