



Appeal Decision

Site visit made on 11 April 2024

by C Butcher BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 May 2024

Appeal Ref: APP/P1615/W/23/3322553

The Yard, Deanside, Mount Pleasant, Parkend, Lydney GL15 4JY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Mr and Mrs Preest against the decision of Forest of Dean District Council.
- The application Ref is P0975/22/FUL.
- The development proposed is three detached dwellings, car parking and manoeuvring.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are: (i) whether the proposed development would be in a suitable location, taking account of development plan policies; (ii) the effect of the proposed development on the character and appearance of the area; (iii) whether the proposed development would be safe in relation to historic mining activity; and (iv) the effect of the proposed development on surface water flooding.

Reasons

Location

3. Policy CSP4 of the Forest of Dean Core Strategy, February 2012 (CS) sets out the spatial strategy for the area. In this instance, the appeal site is located just outside of the settlement boundary for Parkend and is therefore regarded as being within the open countryside in policy terms. Policy CSP4 does not explicitly state what forms of development are acceptable in the open countryside. However, it is very clear that the general thrust of the policy, and its supporting text, is to direct the provision of new dwellings away from such areas to more sustainable locations within settlement boundaries.
4. As such, I find that the proposed development would not be in a suitable location, taking account of development plan policies. It would therefore conflict with CS Policy CSP4 and Policy AP1 of the Forest of Dean Allocations Plan, June 2018 (AP). Collectively, the relevant aspects of these policies seek to ensure that new development is located in sustainable locations.

Character and Appearance

5. The surrounding area is predominantly residential and comprises dwellings of different ages that are largely detached and are set within large plots. In

- combination with the significant amount of mature trees and other vegetation, this provides the immediate area with a pleasingly spacious and verdant feel.
6. The site itself currently forms an area of scrubland which contains various buildings and disused materials. It has an untidy appearance which, when considered in isolation, does little to contribute to the character of the area. However, when seen as part of longer range views, including from Yorkley Road, the site sits above the main part of the village and forms an obvious and highly prominent visual gap between existing developments. As such, the site does contribute significantly to the verdant and spacious character of the village.
 7. The proposed development of three homes would not involve the removal of existing mature trees. However, being two storeys in height and with pitched roofs, it is highly likely that the dwellings would be visible from Yorkley Road as well as other areas nearby. In my view, the proposal would have the effect of removing the existing visual gap thereby greatly eroding the existing feeling of spaciousness and verdancy.
 8. The dwellings themselves would be of a fairly generic appearance. However, given the range of dwelling styles that currently exists in the surrounds, I do not consider that they would look particularly out of place or incongruous when considered in isolation.
 9. Nevertheless, for the reasons given, I conclude that the proposal would result in harm to the character and appearance of the area. It would therefore conflict with CS Policy CSP1 and AP Policies AP1 and AP4. In part, these policies seek to preserve character and appearance and ensure that development is sustainable in all aspects, including through good design. It would also conflict with the relevant aspects of the Residential Design Guide which have similar aims.

Mining Activity

10. The site forms part of an area that was previously used for coal mining. In support of their application, the appellant has produced a Coal Mining Report (March 2022) and a Coal Mining Risk Assessment (November 2022). The latter report identifies that five or six seams of coal have been worked beneath the site, and that two are of sufficiently shallow depth to pose a high stability risk to any proposed development. Furthermore, it also states that there are three recorded mining shafts on or near the site which could also risk the stability of any development.
11. The Coal Authority has objected to the application on the basis that the site forms part of a defined Development High Risk Area and that detailed investigations have not taken place to understand the risk associated with development on site. Based on the evidence before me, I can see no reason to disagree with the views of The Coal Authority.
12. The appellant has suggested that this issue could be overcome through the use of a 'Grampian' style condition that would prevent development from taking place until such investigations have been carried out. However, I am of the view that this would not be an appropriate course of action given that I cannot be certain that the proposed layout of the development would be acceptable in light of the results of these investigations, or even whether the site as a whole

is developable at all. As such, I cannot conclude that the imposition of such a condition would make the proposal acceptable in planning terms.

13. I therefore conclude that it has not been adequately demonstrated that the development would be safe, and as such, it would conflict with CS Policies CSP1 and CSP4, as well as AP Policy AP1. Taken together, the relevant aspects of these policies seek to ensure that development is sustainable, including the consideration of ground instability as a result of the mining legacy of the area.

Surface Water Flooding

14. The appellant has provided a Foul and Surface Water Drainage Strategy (Corner Water Consulting). The study concludes that the proposed development, including sustainable drainage, would reduce the risk of surface water flooding on the site itself.
15. I acknowledge the Council's concerns regarding the risk that surrounding properties may be at risk as a result of surface water runoff from the development. However, even if I were to agree, based on the evidence before me there is no reason for me to conclude that this issue could not be adequately resolved, and I am therefore satisfied in this instance that the use of an appropriately worded condition, which would require the submission and agreement of surface water drainage details, would suffice.
16. I therefore conclude that the proposal would be acceptable in this regard and as such it would not conflict with CS Policies CSP1 and CSP2, as well as AP Policy AP1. In part, these policies seek to ensure that development is sustainable, including by reducing the risk of flooding.

Other Matters

17. The Council's officer report sets out that the site is within 5km of two Special Areas of Conservation. The potential effect of the development on these sites, with particular regard to bats, formed a further reason for refusal. However, as I am dismissing this case, there is no requirement for me to consider this matter further.

Conclusion

18. It is not in dispute that the Council cannot currently demonstrate a 5-year supply of deliverable sites for housing and I have no evidence before me to suggest that this position is likely to improve in the short-term. As a result of the shortfall, policies related to the location and supply of housing are deemed to be out of date. In such circumstances, Paragraph 11d and footnote 8 of the National Planning Policy Framework (the Framework) require that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole.
19. In this instance, the benefits of the proposal include the provision of three new homes on a previously developed site that would assist in meeting need in the area, support for local facilities, and the creation of jobs during the construction phase. I only afford limited weight to these benefits overall given that they are relatively minor in nature.

20. I have concluded that the location of the proposal would not conform with the relevant development plan policies. However, the site is close to a defined settlement boundary and is within walking distance of various services and facilities in Parkend. As a result, I do not find conflict with the Framework, which requires development to be sustainably located in areas which would reduce travel by private car. I have also not found harm in relation to surface water flooding.
21. However, I have concluded that there would be material harm to the character and appearance of the area and in relation to safety as a result of historic mining activity. The support for the principle of development within the Framework is therefore countered by the importance it places on the provision of development that preserves character and appearance while ensuring that sites are safe in relation to land stability. These are matters that I afford significant weight to. As a result, when assessed against the policies in the Framework taken as a whole, the adverse impacts would significantly and demonstrably outweigh the benefits.
22. Consequently, for the reasons given, the proposed development conflicts with the development plan as a whole, and there are no other considerations, including the provisions of the Framework, that outweigh the identified harm. The appeal is therefore dismissed.

C Butcher

INSPECTOR