



Appeal Decision

Site visit made on 5 January 2024

by Lewis Condé Msc, Bsc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 February 2024

Appeal Ref: APP/P1615/W/23/3324477

Land off Foley Rise, Hartpury, Gloucestershire GL19 3DW

- 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 Core Strategic Land Ltd against the decision of Forest of Dean District Council.
 - The application Ref P2006/21/OUT, dated 30 November 2021, was refused by notice dated 12 April 2023.
 - The development proposed is the erection of up to 17 dwellings and associated works.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for the award of costs has been made by Core Strategic Land Ltd against the Forest of Dean District Council. This is the subject of a separate decision.

Preliminary Matters

3. I have revised the description of development in the banner heading from that used on the original planning application form. This follows revisions to the scheme during the application process and so more accurately reflects the development to which the appeal relates.
4. The planning application was submitted in outline with all matters reserved except for access. I have therefore dealt with the appeal on this basis. Although a masterplan has been submitted demonstrating how development may be laid out within the site, the appellant has highlighted this as being indicative only and therefore I have treated it as such.
5. The appellant has submitted a signed/certified Unilateral Undertaking (UU) with the appeal that would provide a financial contribution towards primary education facilities. Additionally, a completed Section 106 agreement with the County Council has also been submitted. This covers the provision of affordable housing and a local area of play, the management of open space and an ecological buffer zone, including the provision of a landscape ecological management plan. I have had regard to the legal agreements during my consideration of the appeal.
6. A revised version of the National Planning Policy Framework (the Framework) was issued in December 2023. Both main parties were offered the opportunity

to comment on the implication of the changes to national policy on the appeal proposal. Where received, comments have been taken into account.

Main Issues

7. The main issues are: i) the effect of the proposed development on the character and appearance of the area; and ii) whether the site is an appropriate location for residential development having regard to access to facilities and services.

Reasons

Character and Appearance

8. The appeal site is a roughly rectangular parcel of scrub/grassland measuring approximately 0.9ha that sits on the crest of a hill. A ridgeline runs broadly across the site near its midpoint, with the land to the west of this falling away. This results in the site having an upper crown of land to the east at approximately 45 AOD, with the land towards the western boundary falling to approximately 40 AOD. The site is largely enclosed by mature vegetation, on or adjacent to the site's boundaries. This includes a band of mature trees along its northern and western boundaries, which are subject to a Tree Protection Order¹ (TPO).
9. Hartpury is a relatively modest rural village. The village is situated on the edge of Longridge Hill and straddles the A417. It contains residential form extending either side of the road, primarily on lower ground to the west and along a rising hillside slope to the east. For the most part, properties front directly onto the main through roads of the village, with the key exception being Foley Rise that has a more suburban cul-de-sac layout of two-storey properties. Although dwellings in the village vary in their appearance, they tend to be set within sizeable plots and are often detached, providing a rather spacious layout of development.
10. Hartpury is fragmented by fields, orchards, and open areas and contains significant mature vegetation. This, together with the village's rural edge, and the general scale and layout of housing, results in the village having a rather pleasant, organic, spacious, and verdant character.
11. Even though the site is bordered by housing to three sides and has mature vegetation along much of its perimeter, due to its open nature and position on the crest of the hill, I find that the site remains a highly sensitive feature in the landscape setting of Hartpury. Indeed, at the time of my site visit much of the boundary vegetation was not in leaf. As such, views into the site, although filtered, remained available, particularly from the west.
12. Despite its location outside the defined settlement boundary, the appeal site still spatially relates well to the existing village, particularly development along the upper plateau, most notably Foley Rise. However, the site does not relate closely with the built form to its western boundary. This is due to a significant change in levels with the adjacent neighbouring dwellings set some distance below the site.

¹ It is unclear from the information before me as to whether this is a provisional or permanent tree protection order(s).

13. As the scheme is in outline, I do not have details of the scale of potential future development. Nevertheless, because of the appeal site's hilltop setting, the overall quantum of housing sought, and the need to take account of the character and appearance of surrounding built form, it is likely that future residential development would break the skyline at the site. Skyline development on the site, in itself, would not necessarily be harmful to the character and appearance of the area, given that properties along Foley Rise already puncture the skyline in certain views. However, to accommodate up to 17 dwellings on this site, it would be necessary for development to cover majority of the site, thereby having a rather considerable impact across an extensive length of skyline.
14. Additionally, to accommodate the proposed quantum of housing on the site, dwellings would need to sit further forward than the existing properties on Foley Rise (towards the site's western boundary), whilst also being spread across the depth of much of the site. Together with the changes in levels and the presence of existing housing below the site to the west, this would result in dwellings positioned above other dwellings on the hillside, in a rather stacked arrangement. This would be at odds with the prevailing surrounding built form, which tends to take place on either lower or higher slopes. The development would also likely entail significant engineering works (potentially incorporating retaining structures) to enable development across this sloping site, this is likely to have a highly suburbanising effect.
15. The proposed development density may be modest when considering the overall size of the site. However, taking account of the need to provide an appropriate ecology buffer zone and the site's constraints, the developable space that could accommodate housing is likely to be much reduced. I therefore find that the development of up to 17 dwellings on the appeal site would also likely entail houses needing to be sited closely together, on relatively small plots in comparison to the surrounding built form. This would result in a rather cramped form of development that would not reflect the predominantly spacious layout of housing found within the village.
16. Whilst wider views of the proposed development may be somewhat limited, the site's elevated position ensures that it would remain highly prominent from sections of the A417, Corsend Road, and public rights of ways to the west of the site. This is despite the presence of intervening built form and vegetation. As such, I consider the proposal would be a visually intrusive form of development within the landscape.
17. Boundary vegetation would help to filter views of the proposal, albeit to varying degrees throughout the year given the deciduous nature of much of the vegetation. Additionally, even though many trees around the site's boundaries are subject to a TPO their future retention still cannot be guaranteed, particularly in light of issues of Ash dieback and potential ownership arrangements. The appellant has also highlighted an intention to provide additional landscaping measures on site, which could be appropriately secured including on-going maintenance arrangements. However, it may take many years for planting to successfully establish, whilst landscaping should not be used to screen otherwise unacceptable development.
18. I recognise that I do not have full details of the scale and design of the final proposed development, including the full extent of landscaping arrangements.

Nonetheless, I consider that the overall level of development proposed would not be capable of assimilating successfully into its surroundings.

19. In reaching this view I have noted the findings of the appellant's landscape appraisal, albeit there appears to be several limitations to the analysis. Particularly in relation to the proposal's zone of visual influence, a lack of assessment of notable viewpoints, as well as a lack of consideration of the character and composition of views in winter periods.
20. I therefore consider that the proposed development would cause harm to the character and appearance of the area. Accordingly, it would conflict with Policy CSP.1 of the Forest of Dean District Council Core Strategy (adopted 2012) (the Core Strategy) and Policy AP.4 of the Forest of Deane Allocations Plan 2006 to 2026 (Adopted 2018) (the Allocations Plan). Together these policies, amongst other matters, seek 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.
21. I also find conflict with the aims of the Framework and the National Planning Practice Guidance (Design and Natural Environment) in respect of ensuring developments are sympathetic to local character, including the surrounding built environment and landscape setting.

Location

22. The site lies adjacent to but outside the defined settlement boundary for Hartpury. For planning policy purposes, it is therefore considered to be in open countryside.
23. The broad thrust of Policies CSP.4, CSP.5 and CSP.16 of the Core Strategy and Policy AP.1 of the Allocation Plan is for the promotion of sustainable development through directing most development towards towns, villages, or groups of villages with reasonable levels of services, facilities and employment opportunities. This, amongst other matters, is to protect the open countryside and to reduce the need for travel, particularly by private motor car. This approach is broadly consistent with the aims of the Framework.
24. Notably, Core Strategy Policy CSP.4 outlines that most new development is expected to take place within existing settlement boundaries. Some exceptions are highlighted under the policy, albeit the appeal scheme would not entail any of the specified exceptions.
25. Core Strategy Policy CSP.16 outlines that development proposals at villages will need to take account of the scale, function and level of services accessible as well as the availability of public transport. The policy further emphasises that the defined settlement boundary will be a key determinant in judging the acceptability of proposals. Under Policy CSP.16, Hartpury is defined as a 'small village', with some services and facilities but generally, limited opportunity for additional development, save for small affordable housing proposals.
26. Spatially, the site relates well to the village, being located alongside existing residential development on Foley Rise. Hartpury hosts a modest range of services including a primary school/nursery, public house, village hall, and recreation ground. On my site visit I observed that these were all within easy

walking and cycling distance of the site, along pavements that extend throughout the village and that largely benefited from natural surveillance.

27. Still, Hartpury does not have the range of facilities and services that would sustain day-to-day living. Residents of the development would therefore generally be dependent on journeys to larger centres to meet wider needs. Nonetheless, the village benefits from a reasonably frequent bus service and bus stops are located within convenient and safe walking distance, this includes a bus shelter approximately 200m from the site. The bus service provides access between Gloucester and Tewkesbury, both around 30 minutes away, which accommodate a wide range of services, facilities, employment opportunities, and other transport options.
28. Notwithstanding the available facilities and public transport options within the vicinity of the site, I consider that future residents of the proposal would remain somewhat reliant on the use of private car given the village's wider rural context. However, the Framework recognises at Paragraph 109 that opportunities to maximise sustainable transport solutions will vary between urban to rural areas and, noting the proximity of public transport options to the site and some local services I have taken this into account.
29. Additionally, Paragraph 83 of the Framework promotes sustainable development in rural areas, setting out that housing should be located where it will enhance or maintain the vitality of rural communities. The proposed development would be capable of supporting the vitality of services and facilities within Hartpury and the surrounding area.
30. Overall, I find that the proposed development would be in a suitable location, with regard to access to services and facilities. The proposal would conflict with Core Strategy Policy CSP.4 due to its location outside of Hartpury's development boundary. Nonetheless, it would comply with facets of Core Strategy Policies CSP.5, CSP.16 and Policy AP.1 of the Allocations Plan insofar as they together seek to promote sustainable communities in rural areas, including through development taking account of the scale, function and level of services accessible. Similarly, for reasons outline above, I find that the proposal would draw support from the Framework on this matter.

Other Matters

31. In seeking to justify their positions, both the appellant and Council have provided details of various other appeal decisions within the authority area. However, the appeal decisions have significant contextual differences to the scheme before me, in terms of the scale of developments proposed, the site contexts or the relevant policy context. As such, my decision does not turn on the matters raised in these decisions.

Planning Balance and Conclusion

32. The proposal would cause harm to the character and appearance of the area, whilst its location outside any defined settlement boundary is also contrary to the Council's spatial strategy. I therefore find that the proposal conflicts with the development plan as a whole.
33. The Council accepts that it cannot demonstrate a five-year supply of housing land which takes me to paragraph 11d)ii. of the Framework. This indicates that planning permission should be granted unless the adverse impacts of doing so

- would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole.
34. The proposed development conflicts with Policy CSP.4 of the adopted development plan for the reasons I have set out in regard to the first main issue. This is an important policy that forms part of the plan's spatial strategy. However, and in the above context, the policy would be deemed out of date. Accordingly, I attach only modest weight to the conflict with Policy CSP.4. Additionally, I have also found compliance with aspects of Core Strategy Policies CSP.5 and CSP. 16 and Policy AP.1 of the Allocations plan, in respect of having reasonable access to services and facilities and supporting thriving sustainable communities.
35. Meanwhile, the harm to the character and appearance of the area would be considerable and this is a matter to which I attach significant weight.
36. The provision of up to seventeen dwellings would make a modest but beneficial contribution towards housing supply. The proposal would also provide socio-economic benefits associated with the delivery and subsequent occupation of the new dwellings, including affordable housing. I have considered Paragraph 60 of the Framework which seeks to significantly boost the supply of housing. I have also considered Paragraph 70 of the Framework, which recognises the importance of small and medium sites in meeting the housing requirement of an area. Together these benefits attract moderate weight. The location and situation of the appeal site also find support in paragraphs 83 and 109 of the Framework as I have explained.
37. As indicated a signed/certified UU and completed S106 agreement have been submitted by the appellant. However, these would secure obligations/mitigation measures that are expected for a development of this scale and nature in line with policy requirements. As such, the planning obligations that would be secured are neutral matters in the decision. Similarly, compliance with other development plan policies are also neutral matters in the planning balance.
38. Bringing the above together, I find that the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
39. For the reasons given, and having regard to all other matters raised, the appeal is dismissed.

Lewis Condé

INSPECTOR



Costs Decision

Site visit made on 5 January 2024

by Lewis Conde BSc, MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 February 2024

Costs application in relation to Appeal Ref: APP/P1615/W/23/3324477
Land off Foley Rise, Hartpury, Gloucestershire GL19 3DW

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Core Strategic Land Ltd for a full award of costs against Forest of Dean District Council.
 - The appeal was against the refusal of planning permission for the erection of up to 17 dwellings and associated works.
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Decision

1. The application for an award of costs is refused.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The PPG also indicates that local planning authorities will be at risk of an award being made against them if they fail to produce evidence to substantiate each reason for refusal.
4. The application essentially relies on the fact that the Council went against the advice of its professional officers and failed to provide adequate reasons for refusing planning permission.
5. In this case I have noted the recommendation of the Council's Officers. However, the decision is one which is a matter of judgement. The Council Members in this case were entitled not to accept the professional advice of Officers so long as a case could be made for the contrary view.
6. From the evidence before me, the elected Members applied a planning judgement. The judgement was made following the receipt of the Council Officer's report and a site visit, as well as the opportunity to raise appropriate queries with Council Officers during the committee meeting. It also took account of the statements made by speakers at the committee meeting, including one of a professional landscape background that objected to the scheme on landscape grounds. Meanwhile the Council's reasons for refusal as set out in the decision notice are complete, precise, specific, and relevant to the application.
7. It will be seen from my decision that I concur with Council Members that the proposal would cause harm to the character and appearance of the area. As such, I consider that there were sufficient grounds for refusing planning

permission. I am therefore satisfied that the Council has shown that it was able to substantiate its reason for refusal.

8. The appellant has also raised concerns about bias and pre-judgement shown against the scheme from elected Members of the planning committee, however, there is no suitably robust evidence before me to support this view.
9. Therefore, I find unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated and an award of costs is not warranted.

Lewis Condé

INSPECTOR

Richborough