



Appeal Decision

Site visit made on 7 March 2023

by R E Jones BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 April 2023

Appeal Ref: APP/P1615/W/22/3301487

Sunray, Baptist Way, Ruardean Hill GL17 9AR

- 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 & Mrs Paul & Dawn Frowen against the decision of Forest of Dean District Council.
 - The application Ref P1348/21/FUL, dated 23 July 2021, was refused by notice dated 22 December 2021.
 - The development proposed is erection of a bungalow and construction of a new vehicular access and associated works.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a bungalow and construction of a new vehicular access and associated works at Sunray, Baptist Way, Ruardean Hill GL17 9AR, in accordance with the terms of application Ref. P1348/21/FUL, dated 23 July 2021, subject to the conditions in the attached schedule.

Preliminary Matter

2. A dwelling at this site was dismissed at appeal in 2016¹ (previous appeal decision). I have had regard to the reasons for that decision and will refer to them in my assessment of this appeal.

Main Issues

3. The main issues are:
 - whether or not the appeal site is a suitable location for a new dwelling having regard to local and national policy for the delivery of housing; and
 - the effect of the proposal on the character and appearance of the area.

Reasons

Location of proposed development

4. The appeal site comprises an undeveloped gap in a short line of dwellings fronting Baptist Way. There are further dwellings on the opposite side of the road that form a more built up and consolidated frontage that continues westward before terminating at the village play area. The dwellings either side and opposite the site are contained within the settlement boundary, yet the appeal site is outside, albeit adjoining it.

¹ APP/P1615/W/16/3144758, dismissed 17th June 2016

5. Policies CSP.4 and CSP.5 of the Forest of Dean District Core Strategy (Core Strategy) (adopted 23 February 2012) are 'core policies' which collectively set out the Council's settlement strategy for new development. Policy CSP.4 focusses new development within existing settlement boundaries. Although the policy would enable some development outside of settlement boundaries, this proposal would not meet the specified exceptions in Policy CSP.4.
6. Policy CSP.5 emphasises the need to direct housing towards allocated sites within 'towns', 'large villages' and specified 'groups of villages' where there is greater availability and accessibility to employment opportunities and local services. The appeal site is not allocated, and would therefore represent 'windfall' development.
7. Ruardean Hill is described in the Core Strategy as a 'small village' with few local services/facilities and very limited opportunity for additional development. Policy CSP.16, which supports Policy CSP.5, emphasises that in small villages the settlement boundary is a key determinant, and the appeal site lies outside of the settlement boundary for Ruardean Hill. As such it would not accord with Policies CSP.5 or CSP.16.
8. The National Planning Policy Framework (the Framework) advises that housing in rural areas should be located where it will enhance or maintain the vitality of rural communities. Ruardean Hill has a modest range of services and facilities that include a place of worship, a toddler and parent group, a sports club with associated clubhouse and pitches, as well as bus services connecting to nearby Cinderford, a large town offering a broad range of services. These would be a short walk or cycle from the appeal site and therefore encourage sustainable modes of transport other than the motor vehicle. Whilst there is an absence of pavements along some routes to those facilities, the routes, I observed during my site visit, are generally quiet and safe.
9. The site's location outside of the village is acknowledged, however, it adjoins the boundary so that the difference in accessibility with other parts of the settlement would, in my view, be negligible.
10. Accordingly, the development proposed would lead to further use and support, of those facilities, in the ways envisaged by the Framework. They could also be accessed by sustainable transport modes given their proximity to the appeal site.
11. Although the use of services and facilities in the village would be likely, it does not for instance have many employment uses or larger retail and health facilities, such as those in nearby Cinderford. Public transport is available from Ruardean Hill, but access to those other services would to a large degree be dependent on car journeys, a transport mode somewhat discouraged by the Core Strategy and the Framework.
12. Based on the above, the proposal's position outside the settlement boundary, and the likely increase in some outward travelling to access services, means it is not in a suitable location for a new dwelling having regard to local and national policy for the delivery of housing. It conflicts with Policies CSP.1, CSP.4, CSP.5 and CSP.16 of the Core Strategy and Policy AP.1 of the Allocations Plan 2006-2026 (adopted June 2018) (Allocations Plan), and Paragraphs 8, 105 and 124 of the Framework. These policies collectively seek, amongst other things, to encourage new development to occur within defined

settlements to achieve sustainable patterns of development which protect the open countryside and limit the need for travel.

13. The harm caused in these respects is diminished by the scheme's accordance with the Framework's provisions on the location of rural housing and the potential for residents to walk to village facilities and use public transport links nearby.
14. I will consider the weight of these development plan conflicts and the scheme's alignment with parts of the Framework further in the planning balance.

Character and appearance

15. The appeal site, forms part of the curtilage land of Sunray, a detached bungalow. It is primarily a lawned area with a domestic appearance that is seen in relation to some ornamental plants and incidental outbuildings, as well as dwellings to the north, south and opposite. Although the site is somewhat open and spacious it is not particularly distinctive, nor does it possess a rural character.
16. In contrast there are larger parcels of land within and on the edge of the village interspersed between residential streets and groups of dwellings. They comprise areas of scrub, trees and rough, semi-improved grazing land that are synonymous with the locality's rural character. These areas break up the density of the settlement's built form and give the village a sense of space, while affording views of the wider Forest landscape. Many of these are designated by the Council as Important Open Areas (IOAs) and are afforded a degree of protection from development. Collectively, the presence of those areas, along with the extensive forest backdrop and pastoral land that surrounds the village give Ruardean Hill an attractive, semi-rural feel.
17. The proposed dwelling would infill the existing gap between Sunray and the adjacent bungalow at Maple Heights forming the central dwelling in a line of six. In doing so the proposal consolidates the rhythm of the built frontage and the way the scheme would be contained by the dwellings either side ensures it does not extend inappropriately into any of those areas I described as contributing to the area's rural character. Furthermore, the proposal's single storey scale and modern design assimilates well with others in the street in terms of its appearance. As such the proposal relates well to the existing pattern of development and the street's character.
18. There are concerns that the proposal would lead to a loss of views through the site and towards the expansive Forest landscape to the east. Whilst the proposal would partially fill the gap in the frontage, views would still be obtainable through the spaces either side of the dwelling, whilst the scheme's single storey scale would ensure that the more elevated dwellings on the opposite side of Baptist Way would be able to obtain views over the dwelling. Moreover, the village's elevated location, along with the spaces between properties nearby would ensure that similar views of the wider landscape could still be obtained from nearby positions along Baptist Way and Highview Road, as well as other high points in the village.
19. I'm mindful the previous appeal decision was dismissed because a dwelling at the site would be out of keeping with the dispersed settlement pattern of development which is characteristic of the southern side of Baptist Road.

However, since that appeal, the sense of space around Sunray has diminished following the approval and construction of a dwelling on land to its north². This has resulted in the street having a more built-up and consolidated frontage, rather than an open and dispersed appearance described by the previous Inspector. Accordingly, there are differences between the case before me and that earlier decision that justify taking a different view insofar as the scheme relates to the area's character.

20. In conclusion, the proposal would have an acceptable effect on the character and appearance of the area. It would accord with Policy CSP.1 of the Core Strategy and Policies AP.1 and AP.4 of the Allocations Plan, which require, amongst other things, that developments take account and respect local character and distinctiveness, and do not harm the local environment. The proposal would also accord with Paragraphs 130 and 174 of the Framework where they require development to protect valued landscapes, be sympathetic to local character, including the surrounding built environment and landscape setting, and optimise the potential of the site to accommodate an appropriate amount of development and support local facilities and transport networks.

Other Matters

21. The Council has sought to highlight the similarities between this case and the dismissed appeal decision at Bream³. In that case, the Inspector attributed limited benefits to the provision of one additional dwelling. However, it is unclear what the housing supply position was at the time. That case is also located in a different part of the District where the Inspector found there to be harm to the locality's character. Accordingly, his balancing section comprised different issues to the scheme before me. On this basis the Bream scheme cannot be considered a direct comparison.
22. There are local concerns regarding the scheme's effect on highway and pedestrian safety. The Council's advisers on highway matters raised no objections in this regard and I have no reason to disagree. Moreover, I note from the drawings that visibility splays will be provided, and I would not envisage that vehicular movements from the site onto what is a relatively quiet highway close to a junction in a residential area, would lead to adverse effects on other road users.
23. If I were to allow the appeal, I would be satisfied with the external brick finish proposed for the dwelling. Whilst I observed some properties with exposed stonework nearby, there were also several dwellings finished in brick, in a colour similar to that proposed by the appellant. In this context the external finishes would be consistent with the mix of material palettes found nearby.
24. There is anecdotal evidence of a condition pertaining to the site that prevents the construction of buildings upon it. Yet, in the absence of the specific wording relating to that condition or the document it relates to, I cannot be certain what effect the condition has. Accordingly, the matter attracts limited weight.
25. I have considered the argument that the grant of planning permission would set a precedent for other similar developments. However, no directly similar/comparable sites to which this might apply were put forward. Each application and appeal must be determined on its individual merits, and a

² Appeal Ref APP/P1615/W/20/3261191, allowed on 4th March 2021.

³ Appeal Ref APP/P1615/W/22/3291154, dismissed on 15 June 2022

generalised concern of this nature does not justify withholding permission in this case.

26. Whether or not the proposed dwelling's construction would meet the highest environmental building standards, is a matter that would be covered under other consenting regimes. Therefore, I have not considered this issue.

Planning Balance

27. The adverse impacts arising from the proposal relate to its unsatisfactory location when judged against the settlement strategy policies for the District. Based on my findings I've judged those impacts to be relatively minor given the number of future trips by private vehicle and the proximity and alignment of the scheme to the settlement's edge. The proposal would also safeguard the visual qualities of the village and avoid those areas which contribute towards its spacious and, semi-rural character.
28. The Council is not meeting its 5-year housing land supply requirement and therefore paragraph 11(d) of the Framework is triggered. The appellant has indicated that the Council has a around 3.88 years of deliverable housing sites. The Council has not challenged this figure and in the absence of any other evidence to the contrary I find this an appreciable under-supply. I also note that this under-supply in the District has persisted since the previous appeal decision in 2016.
29. The proposed dwelling would make a small but important contribution to the existing housing shortfall. Small scale schemes can be built out quicker compared to larger volume developer sites and would provide new family housing, to meet the local need of the settlement. Although the appeal scheme is outside of the village and would not meet the new housing policy of the Core Strategy, it is nevertheless built up to its edge. Because of this, and against the ongoing failure of the Council in meeting its housing requirement I consider the development plan conflict to be slight and outweighed by the additional supply.
30. The Council consider that one additional dwelling would make a limited contribution. However, the starting point of the Framework's presumption is that permission should be granted, and the Government's objective is to significantly boost the supply of homes. Accordingly, the addition of one further dwelling in the District, particularly given the ongoing under-supply and the extent of the shortfall, is given significant weight.
31. I have given minor weight to the economic uplift associated with the development's construction and the increase in local spending by future residents thereafter.
32. An electric vehicle charging point at the dwelling would weigh positively in the scheme's favour by encouraging less polluting vehicle ownership amongst future occupiers. This would also align with the Framework's environmental objectives.
33. The proposal would not accord with the Council's spatial strategy and policies on the location of housing. However, it would accord with the Framework's aim to locate rural housing where it would maintain the vitality of communities, as well as boosting supply. Also, in line with the Framework, the development would allow the potential for walking, cycling and public transport trips to some facilities, despite the reliance on the private car to access places of

employment and higher order services. As such, I attach only moderate weight to the unsuitability of the development's location as it relates to the Council's settlement strategy.

34. The adverse impacts associated with this proposal would not be great. They therefore do not significantly and demonstrably outweigh the benefits of one additional home when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development should be applied.

Conditions

35. I have had regard to the Council's suggested conditions, amending them where necessary for clarity and to ensure compliance with the tests set out in Paragraph 55 of the Framework. I also sought agreement from the Appellant to the pre-commencement conditions.
36. In addition to the standard time limit condition, I have considered it necessary to include a schedule of plans and information that the development relates to, for the avoidance of doubt and in the interests of certainty.
37. Conditions relating to parking, turning and access at the site are necessary in the interests of highway safety. A condition requiring the installation of an electric vehicle charging point prior to occupation is necessary to encourage future occupiers to use sustainable modes of transport.
38. Conditions regarding external lighting, bird/bat boxes and restrictions during the construction stage of the development are necessary to safeguard the interests of local biodiversity.
39. To ensure that the site is landscaped in a manner that is consistent with local character, a landscaping condition is necessary.
40. I have considered it necessary to impose a condition requiring the completion of drainage works prior to the dwelling's occupation to prevent unacceptable flood risks at the site.
41. A construction method statement is necessary to safeguard highway safety, protect the amenities of local residents and prevent harmful pollutants entering the local environment. The appellant has questioned the terms of the condition suggested by the Council, however, these are largely necessary given the proximity of the site to neighbouring residential properties and the local highway network.
42. I acknowledged the appellant's comments regarding the suggested contamination condition. However, the condition in the form presented is necessary to address any unknown contaminants that may be encountered during construction and before the scheme is occupied. Moreover, the initial report submitted with the application shows a site area that did not cover the whole of the appeal site, whilst the conclusions in that report indicate that further assessment is needed if planning permission is granted.
43. I have not included the Council's suggestion for the removal of permitted development (PD) rights. The schemes that could be built under the PD rights referred to, would not, given the context of the site and my assessment above, lead to any likely adverse effects on local character and appearance.

Conclusion

44. The proposed development would be contrary to the development plan but material considerations, especially the presumption in the Framework, outweigh this conflict. Therefore, for the reasons given, the appeal should be allowed subject to the conditions in the attached schedule.

RE Jones

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following drawing numbers: DF 021 01; DF 021 02+Levels; DF 021 03+Drainage details; DF 021 04 X-X and Y-Y; DF 021 05; DF 021 06; DF 021 07+setting out+Highway Details; DF 021 08+GF; DF 021 09; DF 021 10 and DF 021 11 – proposed light scatter and dark zone details.
3. No development shall take place until a site investigation of the nature and extent of contamination has been carried out in accordance with a methodology which has previously been submitted to and approved in writing by the local planning authority. The results of the site investigation shall be made available to the local planning authority before any development begins. If any significant contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority before any development begins.

The Remediation Scheme, as agreed in writing by the Local Planning Authority, shall be fully implemented in accordance with the approved timetable of works and before the development hereby permitted is first occupied. Any variation to the scheme shall be agreed in writing with the Local Planning Authority in advance of works being undertaken. On completion of the works the developer shall submit to the Local Planning Authority a Verification Report with evidence confirming that all works were completed in accordance with the agreed details. If, during the course of development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures.

4. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for: the parking of vehicles of site operatives and visitors; location for loading and unloading of plant and materials; storage of plant and materials used in constructing the development; wheel washing facilities; measures to control the emission of dust and dirt during construction; a scheme for recycling/disposing of waste resulting from demolition and construction works; delivery, demolition and construction working hours. The approved Construction Method Statement shall be adhered to throughout the construction period for the development.
5. Prior to completion or first occupation of the dwelling, whichever is the sooner, one Schwegler 1FR bat box and one Schwegler 1SP sparrow terrace shall be erected at the location shown on PROPOSED ELEVATIONS (drawing no. DF 021 09) published 26/07/2021. These shall be thereafter retained and maintained in accordance with the approved details.
6. Prior to the occupation of the dwelling house hereby approved the landscaping details approved through Drawing DF 021 07 and the approved specification for planting and grassed areas shall be fully implemented. Thereafter the landscape as approved shall be maintained for the lifetime of the development.

7. Notwithstanding the approved details, prior to the first occupation of the dwelling hereby permitted the electric vehicle charging point hereby approved shall be in accordance with the following requirements:
- a. Comply with BS EN 62196 Mode 3 or 4 charging and BS EN 61851 (as amended);
 - b. Have a minimum rated output of not less than 7 kW, measured or calculated at a nominal supply voltage of 230VAC;
 - c. Be fitted with a universal socket (known as an untethered electric vehicle charge point);
 - d. Be fitted with a charging equipment status indicator using lights, LEDs or display;

Any vehicle charging point shall thereafter be similarly retained and maintained in perpetuity.

8. The access and parking areas accessed from the adopted highway must be properly consolidated and surfaced, (not loose stone, gravel or grasscrete), with the area of driveway within at least 5.0m of the carriageway edge of the public road surfaced in bound permeable material and subsequently maintained in good working order at all times thereafter for the lifetime of the development.
9. The vehicular access hereby permitted shall not be brought into use until visibility splays have been provided in accordance with the approved plans drawing number DF-021-06 and shall be maintained thereafter.
10. The development shall be carried out in accordance with the approved drainage details in accordance with drawing DF 021 03 and prior to the first occupation of the development hereby approved. Thereafter the approved drainage details shall be maintained for the lifetime of the development.
11. External lighting shall be installed and thereafter retained and maintained in strict accordance with "Proposed Light Scatter and Dark Zone Details" (drawing no. DF 021 11) published 26/07/2021.
12. All vegetation within the works area shall be maintained at a maximum height of 30mm until construction is completed through regular mowing or grazing in order to discourage reptiles from using the site. All works shall be carried out in accordance with the following measures:
- Any trenches or excavations left overnight shall be covered or provided with ramps to prevent reptiles from becoming trapped. Excavations shall be checked for the presence of animals before being filled.
 - Any building materials will be stored on pallets or in jumbo bags/containers to discourage reptiles from using them as shelter.
 - Excavated soil shall not be left in loose piles overnight, but will either be stored in a skip (or similar) or spread immediately.

*****End of Schedule*****