



Appeal Decision

Site visit made on 28 February 2023

by M. P. Howell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 April 2023

Appeal Ref: APP/P1615/W/22/3307880

Sunnygarth, Woodland Place, Yorkley GL15 4SA

- 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 and Mrs Evans against the decision of Forest of Dean District Council.
 - The application Ref P1443/21/FUL, dated 27 July 2021, was refused by notice dated 8 April 2022.
 - The development proposed is for the erection of a three-bedroom detached dwelling along with associated parking and the formation of a new access.
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Decision

1. The appeal is allowed, and planning permission is granted for the erection of a three-bedroom detached dwelling along with associated parking and the formation of a new access at Sunnygarth, Woodland Place, Yorkley GL15 4SA in accordance with the terms of the application, Ref P1443/21/FUL, dated 27 July 2021, and subject to the conditions set out in the schedule below.

Preliminary Matters

2. I have taken the description of development from the Council's Decision Notice as it provides a more accurate description than that outlined on the original planning application form, which refers to a four bedroomed house. As the amended description is consistent with that outlined on the Appeal Form, I am satisfied that there would be no prejudice in this respect.

Main Issues

3. The main issues are:-
 - The effect of the proposed development on the living conditions of the occupants of Priors Lodge and Sunnygarth, with regard to privacy, noise and disturbance.
 - Whether the proposed development would provide adequate accommodation for future occupants, with specific regard to privacy.
 - The effect of the proposed development on the character and appearance of the area.

Reasons

Living Conditions of Neighbours

4. The proposed development would be sited in a central position, resulting in an unusual relationship with the host property known as Sunnygarth and the adjoining bungalow at Priors Lodge. To clarify, the proposed dwelling would be set back from Sunnygarth, close to its rear elevation, but forward of the bungalow at Priors Lodge. Priors Lodge is elevated from the road, at a similar to the garden at Sunnygarth.
5. The main bulk of the proposed dwelling and the rear gable projection would be situated at a lower level than the existing garden. However, due to the change in levels, the rear single storey projection would be around 1m higher. As such, the patio windows in the single storey projection as well as the proposed patio area would be close to the habitable windows in the front of Priors Lodge. Also, two bedroom windows in the side elevation of Priors Lodge would directly face the private garden of the proposed development.
6. Despite the proximity and level change, the windows in the rear elevation of the proposed dwelling would not provide direct views of the nearest front window in the bungalow. The windows would allow for some mutual overlooking, but the angle of view would be too obtuse to meaningfully impact upon the privacy currently enjoyed at Priors Lodge. The two existing bedroom windows in the side elevation of Priors Lodge would face the private garden of the proposed development at close range. However, this is no different to the current arrangement where the windows face the private garden space of Sunnygarth. Furthermore, the appellant has proposed a 1.8m fence along the boundary, which coupled with the existing landscaping would mitigate any overlooking between the properties.
7. The proposed access arrangement would mean that vehicles associated with the proposed dwelling would park and turn on a driveway close to the rear elevation of Sunnygarth. Three of the five windows in the rear elevation of Sunnygarth serve a bedroom and a living space. In this regard, the occupants of Sunnygarth would be exposed to increased vehicular movements to the from the site and associated noise. The proximity of the parking area to the windows, together with the increase in vehicle activity and associated comings and goings would result in an adverse impact on the living conditions by virtue of noise and disturbance.
8. Accordingly, although I am satisfied that acceptable privacy can be maintained between the proposed dwelling and Priors Lodge, the proposed development would have an adverse impact on the living conditions of the occupants of Sunnygarth, by virtue of noise and disturbance. The scheme would be contrary to Policy AP4 of the Forest of Dean Allocations Plan 2018 (Allocations Plan) and the guidance set out the Design Guide, which require development to employ good architecture and landscaping which respect to the amenity of residents and others. I note that the Council do not have a 5-year supply of land for housing, and I will return to this matter below.
9. The proposal would also be contrary to paragraph 130 (e) of the National Planning Policy Framework (the Framework), which indicates development should create places with a high standard of amenity for existing and future users.

10. Although the Council cite Policy CSP. 1 of the Forest of Dean Core Strategy 2012 (Core Strategy) and Policies AP1 of the Allocations Plan, these policies refer to sustainable and high-quality designed developments that have regard to local distinctiveness and character of the area. These policies do not refer to the living conditions of neighbours.

Living Conditions of Future Occupants

11. The Council has the same concerns over privacy for future occupiers of the proposed development as the neighbours in 'Prior Lodge'. However, rather than repeating myself, I refer to my assessment on the main issue above where I concluded that the level of overlooking between the two properties would be acceptable, subject to the erection of the proposed fence.
12. I, therefore, conclude that the proposed development would provide adequate accommodation for future occupants, with regard to privacy to the garden, patio and rear habitable windows. Accordingly, the scheme would comply with Policy AP4 of the Allocations Plan, the guidance set out the Design Guide and paragraph 130 (e) of the Framework. These policies, and guidance, require employing good architecture and landscaping which respects the amenity of residents and others. Also, development to be create places that are safe, inclusive, and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.
13. To reiterate, the Council cite Policy CSP. 1 of the Core Strategy and Policies AP1 of the Allocations Plan in the reasons for refusal, but these policies refer to sustainable and high-quality designed developments that have regard to local distinctiveness and the character of the area. These policies do not refer to the living conditions of neighbours and would not be applicable to this issue.

Character and Appearance

14. The appeal site is the patio and garden area of Sunnygarth, which is a two-storey detached property located on Woodland Place in Yorkley. The side elevation of Sunnygarth adjoins Woodland Place but includes a large side and rear garden. The site and immediate area are identified as being within the 'Locally Distinctive Area' of Yorkley Slade which is characterised by its open spaces, the medium density of development; and the boundary treatments including low stone walls.
15. In the immediate vicinity, the dwellings are mostly detached and set within good sized plots in a variety of designs, layouts and materials. Aside from Sunnygarth, the properties on the same side of Woodland Place comprise detached bungalows. The building line is varied but all bungalows are setback from the road with the garden and parking areas to the front. Opposite the appeal site, a line of more contemporary bungalows and two storey dwellings front the road with proportionate rear gardens. The dwellings opposite have a more consistent set back, spacing as well as relationship to the road and one another. The density of development and the spacing between properties on Woodland Place adds value to the character and appearance of the area and the 'Locally Distinctive Area' of Yorkley Slade.
16. The proposed dwelling would be positioned closer to the road than the adjacent bungalows but further back than Sunnygarth. Although this arrangement is not typical, it would not be unusual when considering the varied building line in this

instance. The proposed development has also taken some cues from the existing context by reflecting the orientation and spacing between properties but with a detached two storey cottage style. The two-storey cottage style, set back behind parking with a proportionate rear garden would be reflective of the properties opposite. As such, in my judgement the proposed development would harmonise with the scale, design and appearance of the two storey properties as well as the medium density and varied pattern of development within the vicinity.

17. I appreciate that the proposed development would result in the partial loss of the stone boundary wall to the front, which is a typical of the area and identified as part of the character of Yorkley Slade. However, the wall is not listed nor protected as part of a conservation area and would only be partially removed. Furthermore, the proposed wall is not a prominent feature and there are a variety of low enclosures within the immediate vicinity of the site. As such, the partial loss of the wall in this context would not be detrimental to the character and appearance of the area.
18. Accordingly, the proposed development would not be harmful to the character and appearance of the area. The proposal would comply with the objectives of Policy CSP1 of the Core Strategy and Policy AP6 of the Allocations Plan. These policies in general, seek to ensure that proposals have a high-quality design that integrates effectively into its surroundings and protects the local distinctive area of Yorkley Slade.
19. The proposed development would also be compliant with the design objectives set out in Section 12 of National Planning Policy Framework (the Framework).

Other Matters

20. The Council does not object to the proposed development with respect to the effect on ecology, drainage or parking and highway safety. Whilst I have had regard to the representations, I do not disagree with the Council's conclusions on these matters. The parking arrangements and ecology impacts are acceptable, subject to conditions requiring the parking layout and ecology enhancements to be provided.
21. I have had regard to the impact of the proposed dwelling to the living conditions of neighbours on Harold Road. However, the dwellings on Harold Road are sufficiently distant from the proposed dwelling and situated at a higher level. As such, I am satisfied that adequate privacy can be maintained and the proposed dwelling would not adversely affect neighbours living conditions by virtue of light or outlook.

Planning Balance and Conclusion

22. The Council has accepted that their deliverable housing land supply is less than five years for current decision-making. Therefore, in accordance with the provisions of paragraph 11d and footnote 8 of the Framework, policies which are most important for determining the application are deemed to be out of date.
23. To allow housing on the appeal site would run contrary to the development plan policies, which encourages new development to be protect the living conditions of the occupants of neighbours.

24. However, the neighbouring property is already situated very close to the road where traffic movements would already be regularly experienced. Also, a fence enclosure would separate the two properties and a single dwelling would generate low levels of traffic and pedestrian movements. Consequently, having regard to the context, the number of movements and the boundary separation, the impact on the neighbour's living conditions would be limited. I therefore give moderate weight to the conflict with the aims of Policy AP4 of the Allocations Plan, which is consistent with Paragraph 130 of the Framework.
25. In terms of benefits, the provision of a new dwelling would contribute towards the supply of housing, in an area with an under supply. There would also be social and economic benefits arising from the construction period and the potential future spending of occupants. However, the construction benefits would be short term and the proposal is only for a single dwelling, providing a small uplift to the supply of housing and support to services in the area. I therefore afford only moderate weight to these factors weighing in favour of the proposal.
26. As the Council is currently unable to demonstrate the supply of housing sites as required by the Framework, Paragraph 11(d) is engaged. There are no relevant protected areas or assets that provides a clear reason for refusing the development proposed. However, when assessed against the policies in the Framework taken as a whole, the adverse impacts of the proposal would not significantly and demonstrably outweigh the benefits. In this case, the presumption in favour of sustainable development does apply, and is a material consideration of sufficient weight to indicate that permission should be granted notwithstanding the conflict with the development plan.

Conditions

27. The Council have suggested conditions, which the appellant has been made aware of. I have considered the suggested conditions and amended them as necessary in the interests of precision and clarity in order to comply with advice in the Planning Practice Guidance (PPG).
28. A condition specifying the time to implement the consent and accord with the approved plans is necessary to provide certainty. Conditions ensuring the implementation of drainage, parking, access, cycle storage and visibility splays are necessary to ensure their provision to serve the occupiers of the property and maintain pedestrian and highway safety. Also, a condition requiring details of the bat box and a sparrow terrace is necessary to provide biodiversity enhancements.
29. A condition requiring windows to be obscured and fixed serving a bedroom and dressing room in Sunnygarth would be unnecessary. The windows would overlook the driveway, which is not a private space and where level of overlooking between neighbours would be acceptable.
30. The Council has requested that permitted development rights for the dwelling are removed, Part 1 classes A to G and Part 2 Class A. Having regard to the unusual relationship of the proposed dwelling to the neighbouring properties, it is reasonable to limit enclosures, extensions and outbuildings to protect the character and appearance of the area as well as the living conditions of the nearest neighbours. However, in my judgement it is unnecessary to limit rights

to have porch extensions, hard surfacing to the front of the property or the right to erect a chimney/flue and painting the exterior of the building.

31. The Council suggested also suggested a condition to secure electric vehicle (EV) charging points. The amended Building Regulations, which came into force on 15 June 2022, require the installation of EV charging points. As such, it is not necessary to duplicate the function of other regulatory bodies or controls.

M. P. Howell

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 approved plans drawing reference 2_101C, 2_201, 2_202, 2_203A, 2_204A, 2_205, 2_206, 2_208, 2_209, 2_210 and 2_211.
- 3) The dwelling hereby permitted shall not be occupied until the parking area including turning area as shown on the approved plans drawing number 2_101 rev C, has been completed. Any part of the driveway within 5.0m of the carriageway edge of the public road shall be surfaced in bound permeable material. The parking and turning area shall thereafter the area shall be kept free of obstruction and available for the parking and turning of vehicles associated with the development.
- 4) Prior to occupation of the approved dwelling, visibility splays shall be provided from a point 0.6m above carriageway level at the centre of the access to the application site, and 2.0 metres back from the near side edge of the adjoining carriageway, (measured perpendicularly), to the extremities of the site in each direction measured along the nearside edge of the adjoining carriageway. Nothing shall be planted, erected and/or allowed to grow on the triangular area of the land so formed which would obstruct the visibility described above.
- 5) Prior to first occupation of the dwelling hereby approved, details of secure and covered cycle storage facilities for a minimum of 2 bicycles shall be submitted to and be approved in writing by the local planning authority. The cycle storage facilities shall be implemented in accordance with the approved details and maintained thereafter.
- 6) The foul and/or surface water drainage system(s) for the development shall not be implemented other than wholly in accordance with the Forest of Dean District Council: "Drainage requirements for domestic extensions and single dwellings" unless otherwise agreed in writing by the Local Planning Authority. All required drainage shall be in place and operational before the development is occupied and thereafter permanently maintained.
- 7) Prior to first occupation of the dwelling hereby approved, details of one bat box (woodcrete/woodstone construction, southern elevation) and one sparrow terrace (woodcrete/woodstone construction, northern elevation) and their location shall be submitted to and approved in writing by the local planning authority. These features shall be thereafter retained and maintained for their purpose as agreed for perpetuity.
- 8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any order revoking and re-enacting that Order with or without modification), no development normally permitted by Classes A, B, C and E of Part 1 and Class A of Part 2 of Schedule 2 of Article 3 shall be carried out without the express consent of the Local Planning Authority.