



Appeal Decision

Site visit made on 15 May 2023

by Rachael Pipkin BA (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 May 2023

Appeal Ref: APP/P1615/W/22/3295082

Fairways, 37A Woodgate Road, Mile End GL16 7QJ

- 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 Wayne Shiller against the decision of Forest of Dean District Council.
 - The application Ref P1137/21/FUL, dated 10 June 2021, was refused by notice dated 7 October 2021.
 - The development proposed is erection of a bungalow. Improvements to vehicular access and associated works.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on:
 - the living conditions of neighbouring occupants at 37 and 37A Woodgate Road, with particular regard to noise and general disturbance as a result of the use of the proposed access; and
 - the character and appearance of the area.

Reasons

Living conditions

3. The proposed dwelling would be accessed via an existing gravelled track. This is a narrow track that runs between the flank walls and rear gardens of 37 and 37A Woodgate Road (Nos 37 and 37A). At the far end of the track there is a parking and manoeuvring area for the proposed bungalow, predominantly positioned behind No 37A.
4. The appellants state that the access and rear parking area is currently used by 37A for parking. No 37 also benefits from a right of way for part of its length. The proposal would relinquish the rear vehicular access use by 37A and would make provision for improved access and parking for 37A at the front.
5. In addition to this rear parking area, I observed that No 37A also benefits from parking on its front driveway. At the time of my site visit, the rear parking area was occupied by a container storage unit and a construction vehicle rather than domestic parking. Thus, whilst I accept that there is parking available for No 37A at the rear, it seems to me that this is unlikely to be regularly used. The appeal proposal in forming an entirely separate dwelling with its only

- parking at the rear of No 37A would therefore result in a more intensive use of the driveway with comings and goings throughout the day.
6. Both Nos 37 and 37A have ground floor windows which directly overlook the access way. Furthermore, neither of these properties are particularly privately enclosed at the rear. No 37A is enclosed by a picket fence and is relatively exposed to the rear. Whilst a 1.8m fence is proposed along the boundary with No 37, there is a five-bar gate access to the rear garden of this property. This enables views from the driveway both into its garden and a pair of French windows in its rear elevation. There is no proposal or means to enclose this existing access and therefore to prevent direct views between people and vehicles using the access and No 37. Car headlights would therefore be visible and intrusive which would give rise to some disturbance for these occupants.
 7. The intensification in the use of the access and parking area would materially increase noise and general disturbance to both Nos 37 and 37A, particularly to the rear where they could reasonably expect to enjoy a greater degree of peace away from the road.
 8. I appreciate that the appellants currently own No 37A. However, the ownership of this property may change over time and it is therefore not a relevant consideration in terms of assessing the effect of the proposal on the living conditions of occupants of this property.
 9. The Council has accepted that up to 5 households can be served by a private driveway, which would be more than here where a maximum of 3 dwellings would be served. Whilst this may be acceptable in some circumstances, the formation of such a drive would nonetheless still need to ensure it would not cause any undue loss of amenity to either future or existing occupants. This does not alter my conclusions in respect of the proposal before me.
 10. My attention has been drawn to an appeal decision¹ at The Harrow, Kempley Road, Dymock where an Inspector found that the formation of a drive between properties would not give rise to unacceptable noise and disturbance. I do not have the full details of how that driveway related to adjacent properties although I observed from the plan² submitted that the driveway is wider and set in from the adjoining boundaries with some vegetation. It is not therefore directly comparable to the circumstances here where the driveway is narrow and directly adjacent to the flank walls of the properties either side. This appeal decision does not alter my findings.
 11. I recognised that no noise assessment has been undertaken nor that the Council's environmental health officers have been consulted. I also accept that a single private car, moving slowly along the access way would not be unduly noisy and that not all trips would be by car, given the location is accessible by means other than the private car. Nevertheless, there would be an intensification of the use of this access and the frequency of movements would give rise to a general level of noise and general disturbance throughout the day.
 12. I appreciate that Woodgate Road has traffic and that there may be some background noise associated with the golf course to the rear of Nos 37 and 37A. However, it seems to me that the day-to-day use of the access providing

¹ APP/P1615/W/16/3157814

² Proposed site plan – 556/01

the main access to a dwelling would increase overall noise and disturbance for these two properties above these background sounds.

13. Whilst provision is proposed for electric vehicle charging, there is no guarantee that future occupants would drive electric cars and therefore this does not mitigate the noise impacts that would arise from the use of the driveway.
14. I conclude that the proposal would harm the living condition of occupants of Nos 37 and 37A as a result of noise and general disturbance from the use of the proposed access. It would therefore conflict with Policies AP1 and AP4 of the Forest of Dean District Council: Allocations Plan 2018 (the AP), Policy CH2 of the Coleford Neighbourhood Development Plan 2018 (CNDP). Together these policies require, amongst other things, sustainable development that respects and does not have an adverse impact on the amenity of residents. It would also conflict with the National Planning Policy Framework (the Framework) which seeks to ensure a high standard of amenity for existing users.
15. The Council's decision notice also cites the Planning Practice Guidance (PPG) and the Forest of Dean Residential Design Guide (RDG). However, I have not been directed to any specific conflict with these guidance documents. I am therefore unable to conclude there is a conflict with this guidance in respect of this first main issue.

Character and appearance

16. The appeal site is a rectangular plot of land which extends behind the rear gardens of a row of dwellings fronting Woodgate Road plus its access. The site itself lies within Mile End and is included in the defined settlement boundary of Coleford. It is also adjacent to the Coleford Locally Valued Landscape. This is valued for its openness. Beyond the settlement boundary, to the south-west of the appeal site, there is a golf course. This is separated from the appeal site by a well-established mixed species hedge. As relatively open land, the golf course contributes to the openness of the valued landscape. A public right of way (PROW) traverses this running from north to south.
17. The proposed dwelling would be a detached bungalow. It would occupy a position behind the linear development of properties fronting Woodgate Road. The rear gardens of these properties provide a transition between the built-up area of the settlement and the more open land, formed by the golf course. However, the dense hedge that runs between the appeal site and the golf course makes that transition less apparent.
18. The existing hedge would be retained. The landscaping drawings indicate that this would be maintained at a maximum height of 3.6m. At this height, the proposed bungalow, which is indicated to have an eaves height of 2.3m and a ridge height of 4.9m which would be set away from the hedge, would be largely screened from view.
19. To the south-east of the appeal site, there is a cul-de-sac development set back off Woodgate Road at Cyril Hart Way. The proposed bungalow would broadly align with properties backing onto the golf course within this cul-de-sac. However, the bungalow would be less visually prominent as a single-storey building set behind the boundary hedge compared to these two-storey buildings.

20. Although there is an established pattern of development along Woodgate Road, the Cyril Hart Way development has disrupted this. The orientation of the proposed dwelling would not align with that of development fronting Woodgate Road, however, it would not be apparent from this road. Furthermore, its orientation would be the same as a number of properties on Cyril Hart Way, which also sit behind Woodgate Road and in this context, where visible from the public realm, neither its orientation nor position would appear uncharacteristic.
21. The roof of the proposed bungalow may be glimpsed from the PROW that crosses the golf course as well as from the golf course itself, although this is private land. However, the dwelling would be largely screened and viewed in the context of the nearby Cyril Hart Way development. As such, the introduction of a single-storey dwelling in this location would not have an adverse effect on this transitional area and the sense of openness characteristic of the valued landscape.
22. I conclude that the proposed development would not harm the character and appearance of the area. It would therefore accord with Policies CSP.1 and CSP.4 of the Forest of Dean District Council: Core Strategy 2012, Policies AP1, AP4 and AP5 of the AP and Policies CNE1, CH1 and CH2 of the CNDP. It would also comply with the design objectives of the Framework, the PPG and the RDG. Together, and amongst other things, these require sustainable development that reinforces existing settlement patterns and takes account of and is in keeping with local character, protects local distinctiveness and conserves the landscape setting of Coleford.

Other Matters

23. The appellants consider that the pre-application advice received was prejudicial on the basis that this was provided without the benefit of a site visit but suggested harm could arise. They consider this has resulted in an element of pre-determination and bias in dealing with the application. I have no substantive evidence of this. In any event, the Council undertook a site visit prior to determining the application.
24. The appellants have raised concerns about the Council's approach to finding conflict with various policies and guidance, notably the absence of specific identification of relevant parts of national policy and guidance and with the RDG. The Council's decision could have been more specific in this regard. I have however set out in my reasoning above those policies and guidance which I have found relevant to my determination in respect of the main issues.
25. The Council cannot demonstrate a five year supply of deliverable housing sites. As such, in accordance with paragraph 11 d) and footnote 8 of the Framework, the most important policies for determining the application are deemed to be out of date. My decision should therefore apply a presumption in favour of sustainable development. I return to this in my planning balance below.
26. The appeal site lies within the settlement boundary. It is in an accessible location, with public transport access as well as by foot or cycling, where future occupants would not be solely reliant upon the use of private vehicles in order to access services and facilities.

27. The scheme would also provide some enhancement of biodiversity which could be secured through a condition. The proposal has been described as a self-build. It is also intended to meet 'lifetime standards'. These would all be benefits of the scheme.
28. It is intended to carry out the construction of the development in accordance with Waste Minimisation principles, all of which could be controlled by condition. This neither weighs in favour or against the proposal.
29. There are no objections from the highway authority. However, this does not lead me to conclude that the proposal would not have an adverse effect due to the use of the access.

Planning Balance and Conclusion

30. Paragraph 11 of the Framework sets out that for decision taking where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, permission should be granted unless: i. the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
31. The provision of a single market dwelling in an accessible location and within the defined settlement would provide some social and economic benefits as well as environmental benefits through biodiversity enhancement. It would also make a small contribution to the Council's housing supply. However, the benefits of this would be limited due to the scheme providing just a single dwelling. Cumulatively, I attribute modest weight to these benefits.
32. The scheme would not harm the character and appearance of the area. This is a neutral factor.
33. The scheme would also comply with other policies within the development plan. Other than where those deliver a benefit, as already identified above, compliance with policies would also be a neutral factor in the balance.
34. However, as I have identified above, the proposal would give rise to harm in respect of the living conditions of adjoining occupiers. The harmful impact is a matter of very substantial weight and importance in the planning balance.
35. In my view, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a whole. Therefore, the proposal would not constitute sustainable development with regard to paragraph 11 d ii) of the Framework.
36. The proposed development would be contrary to the development plan and there are no material considerations that outweigh this conflict. Consequently, with reference to Section 38(6) of the Planning and Compulsory Purchase Act 2004, the appeal should be dismissed.

Rachael Pipkin

INSPECTOR