



Appeal Decision

Site visit made on 6 November 2023

by K Jones BA (Hons) DipLA CMLI

an Inspector appointed by the Secretary of State

Decision date: 14 February 2024

Appeal Ref: APP/P1615/W/23/3322289

Badgers, Yorkley Wood Road, Yorkley, Gloucestershire GL15 4TY

- 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 Robert and Jacqueline Dale against the decision of Forest of Dean District Council.
 - The application Ref P1031/22/FUL, dated 21 July 2022, was refused by notice dated 18 January 2023.
 - The development proposed is the construction of a new stand alone two-storey dwelling house with attached workshop/garage made in structural insulated timber panels, with a low pitched zinc roof including PV arrays. Scheme includes felling of western red cedar stands and new biodiverse landscaping of the immediate surroundings of the house, including horticultural, orchard and meadow planting, and incorporating gabion retaining walls in local stone.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The National Planning Policy Framework (the Framework) was revised on 19 December 2023, with a further update on 20 December 2023. I have consulted the main parties on the changes and have had regard to the representations received.

Main Issues

3. The main issues are:
 - Whether the proposal would be in a suitable location for housing having regard to the development plan, including accessibility to services and facilities; and
 - the effect of the proposed development on the character and appearance of the surrounding area.

Reasons

Suitable location

4. The appeal site is part of the large residential garden of Badgers, on the corner of Yorkley Wood Road opposite Corner House. It lies on the periphery of a group of houses forming a small outlier of Yorkley and Pillowell, some distance from the edge of both settlements. The site is not within or adjacent to the settlement boundary of either village, and is in the open countryside for the purposes of planning policy.

5. Policies CSP.4, CSP.5, and CSP.16 of the Forest of Dean District Core Strategy (Core Strategy) (February 2012) collectively set out the Council's spatial strategy for new development, supported by Policy AP1 of the Forest of Dean Allocations Plan 2006 to 2026 (the Allocations Plan) (June 2018). Broadly, these policies seek 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.
6. Policy CSP.4 focusses new development within existing settlement boundaries. Although the policy enables some development outside settlement boundaries, this proposal would not meet the specified exceptions for locations in open countryside, such as affordable housing for local persons. Policy CSP.5 emphasises the need to direct housing towards identified settlements, and together with CSP.16 describes Yorkley as part of a 'group village' encompassing Whitecroft, Pillowell, and Yorkley, taking into account shared facilities and close proximity. The supporting text to the latter policy includes a table which summarises the policy approach in group villages as offering potential for small housing sites within the existing settlement, and for affordable housing outside. As the proposal lies outside of the settlement boundary and does not comprise affordable housing, it does not meet the requirements of the policies when taken together.
7. The appellants highlight decisions made in the Council area that do not rigidly apply the settlement boundaries, instead placing emphasis on accessibility to services and facilities and supporting the rural economy. This echoes the Framework which advises that housing in rural areas should be located where it will enhance or maintain the vitality of rural communities. Section 9 of the Framework also highlights the importance of sustainable transport modes, seeking to manage patterns of growth in support of a series of objectives including promoting walking, cycling and public transport use. It is therefore appropriate to consider whether the proposal would be in a suitable location with regard to its accessibility to services and facilities.
8. Yorkley contains a limited range of services and facilities, including a primary school, public houses, a health centre, community centre, and a post office. Similar facilities are also available in nearby Pillowell and Whitecroft. Although the use of these services and facilities would be likely, the group village does not have many employment uses or larger retail facilities, such as those in the closest towns. It would not therefore support the day-to-day living requirements of new occupiers.
9. While acknowledging the comments of the County Council Highways department, the closest facilities in Yorkley lie some distance from the appeal site. My observations on site were that much of the route to reach them is a narrow, unlit, rural lane which is not served by pavements. I accept that this lane is lightly trafficked and has occasional passing places, and the absence of surrounding pavements and lighting may not deter all persons from walking or cycling to local facilities. It has also been put to me that there have been no personal injury collisions in the vicinity of the site within the last five years.
10. Nevertheless, in this instance, I consider the absence of a footway along the unlit route to the closest services and facilities would still be a hinderance that would deter most occupants of the proposed dwelling, especially during adverse weather or periods of darkness. In most instances therefore, I consider

that new occupiers would have some reliance on the use of the private car to access services and facilities in Yorkley and neighbouring villages.

11. The appellants have provided some evidence of public transport links for new occupiers in the form of a bus stop some 450m along this same route, which links Yorkley to local towns. However, I saw no marker for this bus stop during my site visit, nor have I been provided with timetables or other detail to demonstrate that the services available would be a useable alternative to the private vehicle for regular trips including travelling to and from work, appointments, or recreation.
12. The Framework makes clear that opportunities to maximise sustainable transport solutions will vary between urban and rural areas and this should be taken into account in decision-making. However, even in the rural context of the site, the distance to the bus stop and the conditions of the lane to reach it reduce the likelihood of future occupiers using the services in preference to a private car. On this basis I therefore attach limited weight to the availability of alternative means of transport.
13. There are a number of existing dwellings close by, and some dependency on car use is inevitable in rural locations in open countryside. However, the cumulative effect of allowing further development in such a location that encourages regular car use to meet residents' day to day needs would harmfully increase the amount of less sustainable journeys made.
14. In reaching the above findings, I have taken account of an approved application drawn to my attention for a camping site to the south of the appeal site¹, which was considered by the Council to be in a sustainable location. Holiday occupants using a campsite will have a different travel demand to occupiers of a permanent residential dwelling, without the need for regular daily trips to school or work. Accordingly, while I have had regard to this decision, it carries limited weight in favour of the appeal, and it does not justify the harm that would arise from the proposal which I have considered on its own merits.
15. I have also reviewed the other identified appeal decisions provided by the appellants. I do not have full details of these schemes, but note that the Hartpury site² was located on the main A417 road with bus services to nearby major towns, and a surfaced footway connecting to facilities. The site in Worcestershire³ was adjacent to a larger housing development, and was found to have walkable access via local footpaths to village services. The Lancashire site⁴ was adjacent to the boundary of a settlement identified as a focus for new development, and accessed from a street-lit road. Finally, the Hampshire site⁵ appears to have access to a greater range of facilities within the same village, and was well-served by bus services throughout the day on weekdays and weekends. These are all distinctions from the appeal site. Consequently, while I have reviewed the information provided, I have reached my own conclusions based on the evidence before me and the harm I have identified.

¹ Deanwood House, application ref: P1625/12/FUL

² APP/P1615/W/21/3287838

³ APP/H1840/W/20/3251766

⁴ APP/E2340/W/21/3276380

⁵ APP/H1705/W/22/3310335

16. Taking all of the above into account, I conclude that the proposal would be in an unsuitable location for housing, with poor access to services and facilities. This would conflict with the spatial strategy of the development plan as described by Policies CSP.4, CSP.5, and CSP.16 of the Core Strategy, and Policy AP1 of the Allocations Plan. It would also conflict with the provisions of the Framework.
17. The Council has also referred to Policy CSP.1 of the Core Strategy in relation to this main issue. However, this is primarily a design and environmental protection policy, without reference to the distribution of development or specific requirements for accessibility to services and facilities. I will consider the design of the proposal later in this decision, but find no conflict with Policy CSP.1 in respect of the location of the development.

Character and appearance

18. As previously described, the appeal site forms part of a large residential garden on the periphery of a group of houses in the open countryside. Yorkley Wood Road has a predominantly agricultural character as a ridge-top road featuring significant stretches of agricultural fields on both sides of the road. A small cluster of houses is present partway along its length, and Badgers is a notable detached property in large grounds at its southern end. To the north and west, properties within the group have a discretely different character to Yorkley Wood Road, predominantly comprising smaller plots sited beneath the ridgeline on relatively steeply sloping topography.
19. As part of the large garden of Badgers, the appeal site currently makes a positive contribution to the character of Yorkley Wood Road. Even though it is clearly in residential use, the abundant vegetation and attractive boundary treatments relate well to its rural context. Although the non-native evergreen trees present are not typical of the open countryside, there are a high number of such trees associated with the ornamental garden planting at Badgers and in many of the nearby properties. Together they create an attractive verdant character at this end of Yorkley Wood Road.
20. The proposal would remove a significant proportion of this vegetation, and introduce a substantial dwelling. Although the materials palette of the dwelling may be broadly appropriate in this rural context, the large two-storey elevation visible on the approach from the north-west would be prominent at the top of the slope. The scale and massing of the dwelling would appear incongruous and bulky against the modest western elevation of Badgers, and the traditional gable ends visible at Corner House.
21. I note that the design of the dwelling has sought to keep the ridge height of the proposal below that of nearby properties. However, the ground engineering operations to accommodate the two-storey height of development below that level would be extensive, and the plans indicate that they would include some large areas of retaining gabion walling and steeply graded slopes. The engineering works seen alongside the large south-west and north-west elevations of the property would result in a significant intrusion into the verdant rural character of the site.
22. The proposed landscaping would introduce appropriate features including native tree and hedgerow planting. However, these would not appropriately mitigate for the large volume of vegetation to be removed, being both smaller

species and at a lower topography than much of the vegetation to be cleared. Moreover, I am not convinced that the removal of the existing vegetation would benefit the area's appearance by opening up views across the site. In addition to the harm to the character and appearance of the area from the removal of the trees, the new dwelling would continue to substantially curtail views across the site to the wider landscape beyond.

23. I note the appellants' reference to the approved garage and car port with accommodation above at Corner House. Whilst relatively large, this is an ancillary structure within a complex of existing buildings. As such I do not find that its presence provides an appropriate context or justification for the harm arising from the development proposed.
24. The appellants have made a further reference to the appeal decision in Hampshire⁶ which was considered to form the built-up edge of the village, and did not intrude into the wider countryside. That scheme is in a different local authority area with a different planning policy context, and I do not have sufficient detail of this proposal to be able to draw a direct comparison with the scheme before me. However, in this case I note that the site in Hampshire was adjacent to a sports club with a car park and floodlights, and this is a notable difference to the context of the appeal proposal. I have considered this appeal on its own merits.
25. Overall therefore, I conclude that the proposal would result in harm to the character and appearance of the surrounding area. This would conflict with Policies CSP.1 of the Core Strategy and AP4 of the Allocations Plan. Taken together, these policies require, amongst other matters, high quality design that supports a strong sense of place, making a positive contribution to the design quality of the area, and taking into account local character and the important characteristics of the environment.
26. The Council also refers to Policy CSP.4 of the Core Strategy and AP1 of the Allocations Plan in relation to this main issue. I have found conflict with these policies in respect of the location of the development. However, except insofar as the proposal would not meet other policies of the development plan and therefore would not be sustainable development in those terms, I have found no specific conflict with these policies in respect of character and appearance.

Other Matters

27. The appellants have advanced that the current dwelling at Badgers benefits from permitted development rights, and that other structures including outbuildings and extensions could be constructed without the need for planning permission. This would reinforce the domestic nature of the site. However, there is no compelling evidence that these scenarios are a greater than theoretical possibility, or that if the appeal is dismissed such development would be pursued.
28. Moreover, even if buildings and structures were implemented to the full limit of the available permitted development rights, any built form would, by its nature, remain ancillary in form and use to the main dwelling, and would not have the same effect on the character and appearance of the area as a new,

⁶ APP/H1705/W/22/3310335

independent dwelling. As a consequence, I find the suggested fallback position to have little weight in the determination of the appeal.

29. The appellants have raised Policy AP6 of the Allocations Plan which refers to Locally Distinctive Areas (LDAs). The appeal site is a considerable distance from the LDAs identified for the settlements of Yorkley and Pillowell, and the Council raises no concern over the effect of the proposal on the character of either settlement. There is no substantive evidence to lead me to reach a different conclusion. The Council also sets out that the proposal does not conflict with other policies of the development plan including those dealing with drainage, sustainable energy use, biodiversity, and neighbouring living conditions, and I see no reason to disagree. However, the absence of harm in these matters is neutral in the planning balance, and does not alter or outweigh my finding on the harms that would be caused by the proposed development.

Planning Balance

30. I have found that the proposed development would conflict with Policies CSP.1, CSP.4, CSP.5, and CSP.16 of the Core Strategy, and Policies AP1 and AP4 of the Allocations Plan. On that basis, although the proposed development may not conflict with other policies of the development plan, I consider that the proposal would conflict with the development plan as a whole.
31. Both parties agree that the Council cannot currently demonstrate a 5 year housing land supply, and so paragraph 11d) of the Framework is engaged. In these circumstances, this sets out that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole.
32. In the context of the Government objective to significantly boost the supply of homes, a single dwelling would make a small contribution towards the provision of housing in the area. The appellants have also indicated that the dwelling would follow Passive and Active Energy Design principles to minimise the total carbon footprint of the development. Alongside the social and economic benefits associated with the construction and subsequent occupation of the dwelling, these matters weigh in favour of the appeal. However, as the proposal is for a single dwelling, I find that the benefits of the development would be modest.
33. The parties agree that the proposal would be a self-build dwelling. The Framework recognises the need to provide housing for different groups, and recognises the value of small sites including self-build housing. However, the Council sets out that sufficient permissions have been given to meet demand for self-build and custom housebuilding in this area for this period, and there is no substantive evidence leading me to reach a different conclusion. Accordingly, I have afforded limited weight to the self-build nature of the proposal.
34. Conversely, I have found that the proposal would be in an unsuitable location for housing with poor access to services and facilities, and that it would harm the character and appearance of the surrounding area. These are matters which significantly and demonstrably outweigh the modest benefits of the proposal when assessed against the policies of the Framework as a whole. As a result, the presumption in favour of sustainable development does not apply.

Conclusion

35. For the reasons given above, I find that the proposal conflicts with the development plan when read as a whole. There are no material considerations, including the provisions of the Framework, which indicate that a decision should be made other than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

K Jones

INSPECTOR