



Appeal Decision

Hearing held on 6 August 2024

Site visit made on 6 August 2024

by C Carpenter BA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd August 2024

Appeal Ref: APP/Y3940/W/24/3337786

Ski's Trees Compound & Yard, Adjacent to Blackfords Industrial Estate, Greenhill, Royal Wootton Bassett SN4 8EH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs Neil & Emma Jarmolinski against the decision of Wiltshire Council.
 - The application Ref is PL/2023/02473.
 - The development proposed is erection of security lodge and associated works.
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Decision

1. The appeal is dismissed.

Applications for Costs

2. An application for costs was made by Mr & Mrs Neil & Emma Jarmolinski against Wiltshire Council. This application is the subject of a separate decision.

Preliminary Matters

3. The Council has published a Draft Local Plan under Regulation 19 of the Town and Country Planning (Local Plans) (England) Regulations 2012. However, I am not aware of the extent of unresolved objections or whether its policies will be considered as consistent with the National Planning Policy Framework (the Framework). Consequently, in accordance with Framework paragraph 48, I give it limited weight.
4. On 30 July 2024, the Government published a consultation on proposed reforms to the Framework and other changes to the planning system, with an accompanying Written Ministerial Statement (WMS). I invited the parties to consider the relevance of these proposals to the appeal before the hearing, and this matter was also discussed at it. I have taken account of the parties' comments in my decision.

Background and Main Issues

5. The Council refused the application on the basis that the proposed development would constitute a dwelling. However, the appellants contend the building would be multi-functional with incidental staff accommodation, not a dwelling.
6. Therefore, the main issues in this appeal are:
 - whether the proposed development would constitute a dwelling; and

- whether the site represents an appropriate location for the proposed development, having regard to the settlement strategy.

Reasons

Whether a dwelling

7. The appellants clarified that one member of the business's staff would occupy the proposed lodge, and they would live there all year round. The building would include an inter-connected bedroom, bathroom, lounge and kitchen, all of which would be accessed via a dedicated external doorway. The parties agree the size of this accommodation would exceed the Nationally Described Space Standards for a one person, one bedroom dwelling. I find this space would be capable of independent occupation by one person.
8. I note there would be an internal door connecting the living accommodation to the separate office/meeting space. However, the office space would have its own external entrance, toilet and kitchenette. Therefore, there would be no functional inter-dependence between the office area and the living accommodation. Moreover, the living accommodation would be larger in area than the office space and its associated facilities.
9. I have considered the appellants' argument that the proposed accommodation would not constitute a dwelling because it would not include waste and cycle storage or external amenity space in accordance with the requirements of the Wiltshire Design Guide 2024 (WDG) for dwellings.
10. The site would be large enough to accommodate waste and cycle storage, and these facilities could be secured via condition were the appeal to be allowed. I accept that, if the permitted timber drying and seasoning store¹ were built in addition to the proposed lodge, there would not be sufficient space to accommodate a private amenity area equal to the footprint of the proposed living accommodation, as required by the WDG. Nevertheless, there could be space for a smaller amenity area in the corner of the site, and the WDG is guidance only and allows for site-specific constraints to be factored in. Consequently, whether the proposed dwelling would be *sui generis* or within the C3 use class, I do not find compliance with the WDG to be determinative in this main issue.
11. It has been put to me that the proposed lodge could not be severed from the rest of the appeal site. In the appellants' opinion, this is because the site is a single planning unit and the proposed lodge would be served by the same access as the proposed timber drying and seasoning store, the permission for which is extant.
12. Even if the wider site is a single planning unit in its present form, and whether or not the permitted store is built out, on the evidence before me I see no reason why the access route could not be shared by different users. Moreover, there is no mechanism before me to prevent future severance of the lodge from the rest of the site. I am therefore unpersuaded by this argument.
13. Taking all this together, I conclude the proposed development would constitute a dwelling.

¹ Permission reference PL/2021/10797

Appropriate location?

14. The parties agree the appeal site is outside of defined settlement boundaries, so is in the countryside for planning policy purposes. At the hearing, they agreed Policy CP48 of the Wiltshire Core Strategy 2015 (WCS) and saved Policy H4 of the North Wiltshire Local Plan 2011 (NWLP) are relevant to the proposed development; and that Ski's Trees, which is a tree surgery business, is a rural based enterprise that provides employment essential to the countryside.
15. WCS Policy CP48 supports proposals for residential development outside the defined limits of development where these meet the accommodation needs required to enable workers to live at or in the immediate vicinity of their place of work in the interests of employment essential to the countryside. The Policy states such proposals should be supported by functional and financial evidence. Supporting paragraph 6.67 adds that opportunities for accommodation within nearby settlements must be considered initially.
16. The provisions of saved NWLP Policy H4 are broadly consistent with those in WCS Policy CP48. NWLP supporting paragraph 9.7 states justification for a rural based occupational dwelling will be based on the functional and financial tests set out in Government guidance. The Council clarified at the hearing that this is a reference to former Planning Policy Statement 7, which has been superseded by the Framework. Accordingly, I give this reference to Government guidance minimal weight.
17. The appellants argue the functional need for the proposed development is to increase the security of their business. They explained through oral evidence that security threats to the business have persisted since the break-ins and theft reported to the Police in 2022. Calls from neighbours about suspicious activity in the area are received approximately monthly, generally at night and over weekends when no-one is on site. Whilst on-site CCTV cameras can be monitored from a mobile phone, this and other security measures that have been installed – including retractable bollards, palisade fencing on the boundary with the car park, movement-sensitive lighting and heavy-duty locks – do not, in the appellants' opinion, provide a sufficient deterrent to potential burglars because they "aren't bothered".
18. The appellants confirmed they live some four miles from the appeal site, and it takes about 15 minutes to reach the site or longer if traffic conditions are bad. Other employees of the business live a similar or greater distance from the site.
19. I am satisfied on the evidence before me that Ski's Trees is an established business with an operational need to store expensive equipment at the appeal site. I acknowledge the significant financial impact theft of this equipment would have on the business and the ongoing concern of the appellants about the security of their enterprise. I recognise the considerable investment already made by the appellants in improving the security of the site, including measures installed before the break-ins in 2022. I note the proposed office space would be preferable to the shipping container currently used for that purpose, which would then become available for further secure storage. I also accept the proposed modular-build development would be considerably more affordable for the appellants than trying to buy a dwelling in Greenhill.

20. However, the evidence does not indicate equipment has been stolen since the theft reported in 2022, notwithstanding suspicious activity in the area. This suggests current security measures are having some deterrent effect. Moreover, on the evidence presented at the hearing, I am not persuaded that all other potential options to improve security have been fully explored, such as an overnight security guard, an alarm and/or sharing security measures with neighbouring businesses. Nor has the Police's offer of advice on crime prevention measures on site been followed up. Whilst such other measures could be expensive, there is no compelling evidence to demonstrate they would be more costly to the business than the solution proposed in this appeal.
21. In addition, I am not persuaded the proposed lodge would be more effective than other yet untried crime prevention measures. It would be unreasonable to require the occupant of the lodge never to leave the site during evenings and weekends, so there would likely be times when no-one was present. There is also no guarantee the occupant would wake up if a break-in were to occur, given the bedroom would be at the rear of the lodge.
22. The effectiveness of on-site staff accommodation could potentially be tested through a trial of temporary accommodation at the site, such as a caravan. The appellants said at the hearing they had not considered this because a caravan would not be appropriate for the site. However, as no such application has been made to date, this assertion is unsubstantiated.
23. The Council indicated at the hearing that they sometimes allow proposals for temporary accommodation to support rural enterprises if a functional and financial need has been demonstrated. Therefore, there may be merit in exploring this option further with the Council.
24. Taking all this together, there is not sufficient functional and financial evidence to satisfy me the proposed development of a permanent dwelling is essential or required to enable a worker to live at the appeal site. Consequently, the requirements of WCS Policy CP48 and NWLP Policy H4 have not been fully addressed.
25. The appellant would be willing to accept a condition restricting use of the proposed lodge to a worker associated with the tree surgery business. However, this would not overcome the gaps in functional and financial evidence I have identified.
26. There are several homes relatively close to the appeal site on either side of it, in a linear arrangement along Greenhill. Therefore, notwithstanding that there are also commercial uses along Greenhill, I find the proposed dwelling would not be an isolated home in the countryside for the purposes of paragraph 84 of the Framework.
27. Nevertheless, for the above reasons, I conclude the site does not represent an appropriate location for the proposed development, having regard to the settlement strategy. This is contrary to WCS Policies CP1 and CP2, which define the settlement strategy for Wiltshire, and contrary to WCS Policy CP48 and saved NWLP Policy H4.

Other Matters

28. The presence of someone living at the appeal site could help increase surveillance in Greenhill more generally. The proposal would therefore have

some support from WCS Policy 57, the Framework and the WDG, which seek to ensure developments create places that are safe. However, given the occupant would not necessarily be always present and views from the lodge towards the road and Blackfords Industrial Estate would be restricted by existing boundary treatments, I give this benefit limited weight.

29. The proposed development would make a modest contribution to the local economy through construction and future occupiers' use of local services and facilities. The purpose-built office space would also help to retain or expand an existing rural business, in accordance with WCS Policy 34, Policy LM6 of the Lydiard Millicent Neighbourhood Plan (LMNP) and the Framework. That said, the introduction of a dwelling onto employment land protected by these same Policies would limit the weight of the scheme's economic benefits.
30. The provision of a dwelling on previously developed land would help boost the supply of homes in accordance with the Framework. As only one home would be delivered, I give this benefit limited weight.
31. At the hearing, the parties agreed that, according to footnote 8 and paragraph 226 of the Framework, the Council is only required to demonstrate four years' supply of deliverable housing sites. This is because the Council has an emerging Local Plan that has reached Regulation 19 stage, including both a Policies Map and allocations towards meeting housing need. The parties also agreed the Council can currently demonstrate 4.2 years' supply and that, consequently, the presumption in favour of development is not engaged. I concur.
32. Under the Government's proposed changes to national policy, the Council would be required to demonstrate a five-year supply of housing land, rather than four. At the hearing, the parties agreed that - in that scenario - the presumption in favour of sustainable development at paragraph 11d) of the Framework would be engaged because the Council's demonstrated supply falls short of five years. However, they disagreed about the weight to be given to the Government's proposed changes in this appeal. The Council said they should be given very little weight, but the appellants said the Government's intentions were clear and considerable weight should be given to the WMS.
33. The proposed revisions to the Framework are draft and therefore may be subject to change before the final Framework is published. I recognise the significance of the WMS as an expression of government policy. However, it does not refer to the specific detail of the proposed wording changes affecting Framework paragraph 11d). Consequently, I give these proposed wording changes only limited weight at this stage, and this does not change my finding about the presumption.
34. In addition, given the limited weight I have given more generally to the Regulation 19 emerging Plan, I do not accept that potential future changes to the settlement strategy render WCS Policy CP1 out of date such that this would trigger the presumption.
35. The Council has raised no concern with highway safety, the appearance of the proposed lodge, or its effect on the living conditions of neighbouring occupiers. On the evidence before me I see no reason to disagree. However, an absence of harm in these respects is a neutral factor.

Conclusion

36. I have found the proposal conflicts with the development plan, read as a whole. No other material considerations, including the Framework, have been shown to indicate that a decision should be taken otherwise than in accordance with it. Therefore, the appeal should be dismissed.

C Carpenter

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Neil Jarmolinski	Appellant
Mrs Emma Jarmolinski	Appellant
Mr Gary Lewis Llewellyn BSc (Hons) DipUP MRTPI	Independent Planning Consultant

FOR THE LOCAL PLANNING AUTHORITY:

Mrs Olivia Tresise	Planning Officer, Wiltshire Council
Mr Adrian Walker	Planning Manager, Wiltshire Council

ADDITIONAL DOCUMENTS SUBMITTED AT THE HEARING

DOC1 A2-sized copies of drawing nos GH-EX-01 Existing Site Plan, GH-PR-01 Proposed Site Plan and GH-SL-01 Proposed Security Lodge.