



Appeal Decision

Site visit made on 19 February 2025

by **Rachael Pipkin BA (Hons) MPhil MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 23 May 2025

Appeal Ref: APP/G1630/W/24/3349620

Brewers Field, Post Office Lane, Cleeve Hill, Cheltenham GL52 3PS

- 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 Brewer against the decision of Tewkesbury Borough Council.
 - The application Ref is 22/00216/FUL.
 - The development proposed is Construction of single dwelling and associated infrastructure.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. Since the appeal was lodged, the Government published a revised National Planning Policy Framework (the Framework) on 12 December 2024. The parties have had the opportunity to comment on the changes to the Framework insofar as they are relevant to this appeal. I have proceeded on that basis. References in the decision are to the December 2024 Framework.

Main Issues

3. The main issues are:
 - the effect of the proposed development on the character and appearance of the area, including the Cotswolds National Landscape;
 - the effect of the proposal on non-designated heritage assets;
 - the effect of the proposed development on trees;
 - whether the proposal would make adequate provision for the disposal of foul and surface water; and
 - the effect of the proposed development on land stability.

Reasons

Character and appearance

4. The appeal site is located within the Cotswolds National Landscape (formerly Area of Outstanding Natural Beauty) (CNL). The special qualities of the CNL include, amongst other things, the unifying character of the limestone geology which is used as building materials, the Cotswold escarpment rolling countryside and distinctive settlements developed in the Cotswold vernacular with high architectural quality and integrity. The use of locally quarried limestone brings a

harmony and strong sense of unity to the built environment of scattered villages, which amongst other things contribute to the National Character area of the Cotswolds. More locally within the CNL, the site lies in the landscape character type 'Escarpment: Coopers Hill to Winchcombe (2D) Character Type' characterised by steep, exposed slopes partially wooded becoming more gentle on the lower slopes, where small scale settlements are located.

5. The site is an area of woodland in a semi-rural location, off Post Office Lane, within a small cluster of development characteristic of the small scale settlements found in the landscape character type. Post Office Lane is single track, sloping down steeply from the B4632 to Stockwell Lane as it traverses the hillside of Cleeve Hill. Being located on the hillside, the site is relatively steep, sloping down from the lane to the north and west. It has a relatively narrow street frontage, enclosed by a post and rail fence, where it lies between Orchard Cottage to the north and Glendale to the south and east, opening up as it extends behind the large garden to this property. The woodland which includes land to the west, also in the appellant's ownership, and historically an orchard has been unmanaged and become overgrown. The site adds to the verdant character and visual amenity along this part of the lane where the pattern of development is more spacious. It also contributes to the areas of woodland that provide a setting for the settlement and characteristic of the wider landscape in which the site lies.
6. There is no overriding pattern of development along Post Office Lane. Some properties are positioned close to the road, other sets back behind deep front gardens of long driveways. Whilst ranging in age and size, properties are traditional in appearance, mostly designed in the Cotswold vernacular displaying gabled roofs and constructed from limestone, set behind low stone boundary walls and vegetation, some of these, referred to as Yiend houses, are locally listed as non-designated heritage assets. The Council has described the area of Post Office Lane featuring its own distinctive 'micro-vernacular' due to the presence of these Yiend houses and other properties being built in a similar fashion. I concur with this assessment having observed that the character along the lane to be distinctive, with a degree of harmony associated with unifying features between properties.
7. The proposed dwelling would be substantial, set back from the lane within the woodland, part of which would be cleared, with a new access off the lane, driveway and parking area. The dwelling would be two-storey with an irregular and sizeable footprint, part of which would be cantilevered and set on piers where it would jut out from the sloping hillside. The main body of the building would comprise a long two-storey rectangular section projecting rearwards from the lane with an extensive metal standing seam dual pitched roof. Flat roofed sections of the building would provide areas for terraces to the south and west of the building as well as green roofs. A two-storey flat roofed section at the front of the building would be finished in limestone with the remaining walls predominantly clad in timber, described by the appellant as having been designed as a contemporary interpretation of Tudor style houses locally and intended to reflect the sylvan setting of the building and maintain a woodland feel.
8. The appellant's Landscape and Visual Impact Assessment (LVIA) identifies that the greatest perceivable effect on local character would be along the lane and perceived by motorists and walkers along the lane. From my own observations on site, I agree with this assessment. The change would also be experienced from

neighbouring residential properties. Whilst it is the appellant's intention that the dwelling would not be very visible from the road, tree removal would be necessary to create the access and, as I shall come on to, likely to be required to accommodate tanks for drainage purposes. This would open up the site providing views of the large timber clad gable end, the expanse of dark metal roof and the cuboid flat roofed sections. Whilst the use of limestone would help to connect the building to development locally, the extensive use of timber and metal would dominate the character and appearance of the building and would be discordant features in the context of nearby development. The significant proportions of the building with its angular lines and cuboid sections would appear anomalous and visually jarring with the scale and traditional designs and materials apparent on other buildings visible along Post Office Lane.

9. Landscaping is proposed to the site and on land beyond which is within the appellant's ownership. This may enhance tree coverage in parts of the site but it would nevertheless be opened up to accommodate the development towards the front. Whilst argued by the appellant that it would be viewed against a well-vegetated backdrop, the scale of the proposed building is such that it would dominate and there would be limited views of the retained vegetation behind the proposed dwelling.
10. The development would introduce a new access to the road and a building where there currently is none. However, a building on this site, of an appropriate size and sympathetic design, would not appear out of place. Whilst it would inevitably bring the built form closer to the neighbouring property, Orchard Cottage, it would not be uncharacteristic of the relationship between neighbouring properties along the road. However, in this case, the size and design of the proposed dwelling would fail to integrate with development along Post Office Lane.
11. In the local area of Cleeve Hill, there are examples of substantial, contemporary dwellings, notably on the adjacent land to the south of the appeal site at Land at the Coach House, allowed on appeal¹ (the Coach House appeal) as well as off the main road (the B4632) to the south where they are visible from both the road itself and, due to their elevated position, in views from within the landscape. The LVIA suggests that given the existence of these within the landscape, the proposal would not be wholly out of keeping in the location. However, these contemporary buildings, including the one at the Coach House despite its proximity to the appeal site, are not visible from public viewpoints along Post Office Lane. Neither the presence of these existing dwellings nor the findings of the Inspector in the Coach House appeal lead me to different conclusions in respect of the scheme before me.
12. In views towards Post Office Lane from the higher land to the east, the proposed dwelling would be less prominent than some of these contemporary dwellings. Landscaping is proposed and a substantial part of the site within the appellant's ownership would remain vegetated and could be secured through a planning condition to remain as such. This would help to reduce the visual impact of the development as it would be set amongst the trees and within the wider cluster of development around Post Office Lane. Nevertheless, it would be a large building with a substantial metal roof incorporating solar panels which would draw attention to it and there would be some harm to the wider landscape arising from this.

¹ Appeal Ref: APP/G1630/W/17/3184561

13. Drawing together my findings, the proposal would introduce a discordant form of development along Post Office Lane due to the design, scale and massing of the building and the choice of materials and finishes. The reduction in tree coverage on the site would erode the wooded setting of the settlement and its contribution to the landscape but limited in its extent. Nevertheless, it would result in harm to the traditional character along Post Office Lane and its contribution to the special character and natural beauty of the CNL. It would therefore conflict with policies SD4, SD6 and SD7 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 (the JCS); policy RES5 of the Tewkesbury Borough Local Plan 2011 – 2031 (the LP) and Policies 1 and 9 of the Woodmancote Neighbourhood Development Plan 2023 (the WNDP). These policies in combination and amongst other things, require development to respond positively to and respect the character of the site and its surroundings, have regard to local distinctiveness, protect and enhance landscape character, within the national landscape, to be consistent with policies set out within the Cotswolds AONB Management Plan.
14. Whilst not part of the development plan, policy CE1 of the Cotswold National Landscape Management Plan 2023-2025 sets out that proposals likely to impact on the landscape of the CNL should have regard to, be compatible with and reinforce the landscape character of the location and should have regard to the scenic quality of the location and its setting and ensure that views, both into and out of the National Landscape and visual amenity are conserved and enhanced. The scheme, in failing to do so, would be in conflict with this policy. More significantly, it would conflict with the statutory duty under Section 85 of the Countryside and Rights of Way Act 2000 (as amended) to seek to further the purpose of conserving and enhancing the natural beauty of the national landscape.

Non-designated heritage assets

15. Arthur Yiend was a local quarryman, builder and entrepreneur of the early 20th century who used local stone for development on Cleeve Hill. These dwellings, collectively referred to as Yiend houses after said builder, have a traditional appearance, constructed from local limestone featuring gable roofs and dry stone boundary walls. They display a coherence of design, reflecting local characteristic building materials and contribute to the traditional character along Post Office Lane which forms part of the setting of these historic buildings and how they are experienced.
16. The appeal site is located adjacent to and opposite Glendale and Denewood, both Yiend houses and non-designated heritage assets. As an area of undeveloped woodland it also contributes to the rural setting of these heritage assets as well as the wider setting of other nearby Yiend houses along Post Office Lane. The introduction of a substantial and contemporary dwelling, with a predominance of timber cladding and dark metal roofing materials to this site, would result in a visually jarring and discordant element set amongst the traditional soft stone houses built by Yiend. The scale and design would be unsympathetic to the traditional and historic character along Post Office Lane and would therefore be harmful to the setting of these historic buildings.
17. I accept that the proposal does not seek to replicate the non-designated heritage assets. However, it fails to respect the traditional character of development along

Post Office Lane, in the context of which it would appear incongruous which would be harmful.

18. The proposal would cause a moderate to high degree of harm within the setting of the non-designated heritage assets. It would therefore conflict with policy SD8 of the JCS, policy HER5 of the LP and Policy 9 of WNDP which together require undesignated heritage assets and their setting to be conserved and enhanced as appropriate to their significance and for their important contribution to local character, distinctiveness and sense of place, proposals affecting a locally important heritage asset's setting will be expected to sustain or enhance the character, appearance and significance of the asset.
19. In respect of non-designated heritage assets, the Framework sets out that a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. I address this in my planning balance below.

Trees

20. The appeal site is an area of woodland. I observed it to be overgrown with significant ground vegetation cover and ivy growing up some of the trees. Trees are distributed throughout the site and vary in stature and condition. They nonetheless positively contribute to the sylvan character of the site, which breaks up the built form along Post Office Lane, and to longer distance views across the wider landscape and the CNL. In addition, they deliver benefits in providing shade, helping to reduce pollution, manage drainage and providing natural habitat.
21. The submitted Tree Survey Report² relates to the site conditions from July 2021 and explains it is limited in its extent due to the dense ground vegetation and overgrown nature of the site. Of those trees surveyed, it identifies most to be of low quality, falling in either category C1 or C2 of the British Standards³, with the exception of a mature ash tree which is categorised as B1 and of moderate quality.
22. Evidence from the appellant's LVIA, dating back to 2021, indicates a greater extent of vegetative cover, particularly along the boundary to Post Office Lane. This accords with the Council's view that some trees have already been removed from the site.
23. The landscape strategy drawing indicates that a few trees would be removed including the ash tree on the basis that it has a limited life span. According to the tree survey, this tree has a useful life span of over 20 years and is in good physical condition and desirable for retention. There appears to be some conflict within the information in respect of the value of this tree, however, based on the survey and my own observations on site, the loss of this tree would be harmful.
24. It is proposed that the structure is partially supported on posts and steel screw piles to minimise the amount of ground the house takes up, to allow habitat below and to be less intrusive within the woodland and around the root protection area. Where trees are to be retained, no dig techniques would be employed to limit any impact upon these. Whilst such an approach may be suitable, it is described in general terms rather than in relation to the trees that may be affected.

² MHP – Tree Survey Report, v1, 13/08/2021

³ British Standards 5837:2012 'Trees in Relation to Design Demolition and Construction – Recommendations'

25. Proposed attenuation crates would be sited towards the front of the site. These would have to be installed within the ground. Whilst it is stated that these would only minimally intrude into the root protection area of mature trees, the excavations would need to be deep and there would be some adverse impact on these trees and their root systems and vegetation.
26. No arboricultural impact assessment has been provided and there is little information on the extent of tree removal, including those already removed. The trees to be retained are not adequately identified, and limited information is therefore available as to how they would be protected. Had such information been provided, it may have been possible and appropriate to impose a planning condition to secure required tree protection measures. In the absence of this, I cannot be assured that the scheme would not unacceptably affect trees on the site. Moreover, because there is insufficient information, it is not possible to establish the extent of any mitigation required to offset the harm in biodiversity terms.
27. The proposal would adversely impact on trees. It would therefore conflict with Policy NAT1 of the LP which requires development likely to result in loss or harm to features and habitats important to biodiversity to provide measures that would avoid, mitigate against or compensate for the adverse effects of the development.

Drainage

28. The appeal scheme would introduce impermeable surfaces comprising new access, roof areas and hard landscaping, amounting to an area of 470 square metres. It is proposed that surface water flows arising from this impermeable area would be attenuated through the provision of below ground cellular storage. These attenuation tanks would ensure that flows would be no greater than existing greenfield run off rates for all storm events up to and including the 1 in 100 year plus a 40% allowance for climate change.
29. The Planning Practice Guidance (PPG)⁴ sets out that where possible preference should be given to solutions that allow surface water to be discharged according to a hierarchy of drainage options. At the top of which is into the ground or infiltration, followed by to a surface water body, then a surface water sewer, highway drain or another drainage system, and finally, into a combined sewer.
30. Due to the topography of the site, soil types and the absence of a nearby watercourse, the appellant considers that both infiltration and discharge into a watercourse are not available drainage options. It is therefore proposed that the tanks would discharge through a connection to existing highway drainage, subject to highway authority approval, or, in the event that this is not possible, into the existing combined sewer along Post Office Lane, subject to agreement by Severn Trent Water (STW).
31. The Council disputes that there are no options for surface level sustainable drainage systems (SuDS) within the site. The scheme does propose some green roofs. It is not clear whether these have been excluded from the calculations of impermeable areas. However, the site is sizeable and it is not apparent from the evidence why the appellant considers shallow amenity SuDS as suggested by the Council could not be accommodated which could reduce the required size of the

⁴ Paragraph: 056 Reference ID: 7-056-20220825

attenuation tanks and the need for deep excavation into the ground to accommodate them.

32. The location of the tanks at the front of the site and requiring deep excavation would likely give rise to other harms, notably to the root protection area of mature trees, as set out above. Detailed information to demonstrate that this would not be the case has not been provided, in the absence of which I am unable to conclude that the tanks in this location would be suitable.
33. Neither the highway authority nor STW have indicated that either proposed options would be acceptable. The drainage strategy indicates that the appellant may need to construct new drains and/or upgrade existing ones. I have limited evidence about the extent of the works required nor how they would be secured.
34. Local residents and the Council have raised concerns about the capacity of the existing 225mm combined sewer pipe to cope with any additional flows. This is based on previous experience of flash flooding locally, as attested by local residents. A non-return valve could be used to prevent backflow onto the site. However, it is unclear what could happen elsewhere within the combined sewer system if it has insufficient capacity for additional flows arising from the proposal. It seems to me that this could result in a surcharge of the system, increasing flood risk. As a combined sewer which also carries foul water, this would have public health implications.
35. An existing drainpipe discharges water from the appeal site via a gully into the drain at the front of Orchard Cottage which is downslope of the site. Occupants of this property have highlighted that during periods of heavy rainfall the flow from the appeal site can be considerable. They have concerns about any increase in that water flow undermining the foundations of their property which anecdotal evidence indicates is an issue locally. The submitted drainage reports do not address this, with the drainage being to the proposed attenuation tanks at the front of the site. It was also highlighted in a hydrological technical note⁵ submitted by this neighbour, that surface water flow routes may be impacted both during site clearance, construction and the proposed building acting as a barrier to these, therefore leading to potential redistribution of flows downstream. The appellant's drainage reports do not provide sufficient detail in respect of these matters that enable me to conclude that no harm would arise.
36. Calculations provided by the appellant based on restricted discharge for the impermeable catchment indicate an improvement on existing greenfield run off rates. However, this is based on the drainage proposals which I have identified as unacceptable. Consequently, I am unable to reach a firm view as to whether reduced run off rates would be achievable.
37. The modelling tool 'IH124' used by the appellant to calculate predevelopment greenfield run off rates has been questioned by an interested party who considers the 'FEH-22' tool should be used. The appellant has provided an explanation of the approach used. It is understood that both modelling tools are an acceptable approach for assessing greenfield runoff rates. As I have found the proposed surface water drainage unacceptable for other reasons, it has not been necessary for me to consider this matter further.

⁵ WHS Post Office Lane Hydrological Technical Note, 5 December 2023

38. Drawing together my findings in respect of surface water drainage, it has not been satisfactorily demonstrated that drainage through infiltration to reduce the tanked requirement has been fully considered. The tanks themselves, due to their position and the depth of excavation, would likely harm trees on the site and are therefore unsuitably located. Moreover, it is not certain that a connection to either highway drainage or the combined sewer would be acceptable. It is also not clear how surface water flows may be affected by development on the site and how this may impact properties downslope of the proposed development. Consequently, I cannot be satisfied that surface water drainage would be adequately addressed by the proposals.
39. It is proposed that foul water would be disposed of through a connection to the STW sewer. Technical details demonstrating that this is feasible have not been provided nor is there any indication from STW that this would be acceptable. Given the steep topography of the site and concerns raised about the capacity of the existing sewer pipe particularly if it is also to receive outflows from the attenuation tanks, I cannot be certain that this would not give rise to harmful effects.
40. It has not been demonstrated that the proposal would make adequate provision for both foul and surface water drainage. In the absence of this, it therefore conflicts with Policy INF2 of the JCS which requires new development to incorporate suitable SuDS to manage surface water drainage and to avoid any increase in discharge into the public sewer system, ensuring that flood risk is not increased on-site or elsewhere. I have found no specific conflict with Policy NAT2 of the LP which seeks opportunities to enhance watercourses.

Land stability

41. The appeal site is a wooded area with steep topography with the surrounding area along Post Office Lane and more generally, Cleeve Hill, being steep also. The scheme would require the removal of a large part of the wooded area and associated vegetation.
42. The PPG⁶ explains that the planning system has an important role in land stability, notably in minimising the risk and effects of this on property, infrastructure and the public and helping to ensure development does not occur in unstable locations or without proper precautions. Paragraph 002⁷ acknowledges that the planning system works alongside a number of other regimes, including Building Regulations, which seek to ensure that any development is structurally sound.
43. A technical report⁸ by an accredited consultant, commissioned by an interested party, identified that there is significant natural ground instability in the vicinity of the appeal site caused by clays potentially causing shrink swell; weak and unstable rock leading to downhill slippage on steep slopes (land instability) potentially leading to landslide; the land has been categorised as Level E for landslides which is the highest level possible; and the removal of trees can increase slope instability and the integrity of the wooded area should be preserved in this interest.

⁶ Paragraph: 001 Reference ID: 45-001-20190722

⁷ Paragraph: 002 Reference ID: 45-002-20140306

⁸ Preliminary Investigation and Slope Stability Inspection by Dunelm Geotechnical and Environmental, September 2023

44. This report highlights serious concerns. The PPG⁹ sets out the steps to be taken if land stability is an issue. The appellant has not addressed these matters, instead relying on Building Regulations supervision and approval to do so. As such, it has not been demonstrated that the appeal scheme would not have an adverse effect on land stability with associated harms. It would not be appropriate to leave such matters to a planning condition as it has not been established that land is sufficiently stable to support the proposed development.
45. I acknowledge that the Inspector in relation to the appeal on the adjacent site concluded in that case that Building Regulations would address land stability concerns. However, the Council has confirmed that no technical reports on land stability had been before that Inspector as there is before me in respect of this appeal. That appeal decision does not therefore lead me to any different conclusions.
46. The appellant asserts that he was not afforded time during the application process to address this matter prior to the Council issuing its decision. However, this is a procedural matter and does not alter my conclusions in respect of this main issue.
47. The guidance in the PPG is clear in this matter. The appellant should have provided information in respect of land stability given the concerns raised. In the absence of this it has not been demonstrated that the proposed development could be carried out without an adverse effect on land stability. It would therefore conflict with Policy SD14 of the JCS which requires any risks from new development associated with land instability to be satisfactorily resolved. I have found no direct conflict with Policy HEA1 of the LP as this policy refers to health in relation to major developments which the appeal scheme, as a single dwelling, is not.

Planning Balance

48. It is common ground that the Council cannot demonstrate a five year supply of deliverable housing sites. In the submissions, the supply is indicated to be about 3.24 years. Therefore, in accordance with paragraph 11(d) of the Framework, permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed. Footnote 7 to paragraph 11(d) is clear that this applies to National Landscapes.
49. The proposal would not conserve or enhance the landscape and scenic beauty of the CNL, a matter to which I give great weight in accordance with paragraph 189 of the Framework. This conflict provides a strong reason for dismissing the appeal and as a consequence paragraph 11(d) of the Framework is not engaged.
50. Nevertheless, the proposal would deliver a single dwelling which would make a very small contribution to housing supply in the Borough. The location is within the built-up area around Cleeve Hill and relatively well connected, as found in the Coach House appeal. There would be moderate economic benefits both during the construction and subsequent occupation of the dwelling. Due to the size of the scheme, the overall benefits arising from it would be limited.

⁹ Paragraph: 006 Reference ID: 45-006-20140306

51. I have found that there would be a moderate to high degree of harm to the significance of the non-designated heritage asset through unsympathetic development which is harmful to the setting of these assets along Post Office Lane. In accordance with paragraph 216 of the Framework and making a balanced judgement, I find this harm outweighs the modest benefits of the scheme.
52. Weighing against the benefits of the scheme, I have found the proposal would cause harm to the character and appearance of the area, including harm to the CNL and the setting of a number of non-designated heritage assets. It would be harmful to trees on the site, with insufficient information in respect of mitigation for any such loss. It would also not make adequate provision for surface and foul water drainage. The proposal has not demonstrated that it would not give rise to land instability issues. My overall conclusion is therefore that the modest benefits of the scheme do not outweigh the significant harms that I have identified.

Conclusion

53. For the reasons given above the appeal should be dismissed.

Rachael Pipkin

INSPECTOR