



Appeal Decision

Site visit made on 11 July 2025

by **B Davies MSc FGS CGeol**

an Inspector appointed by the Secretary of State

Decision date: 28 October 2025

Appeal Ref: APP/P1615/W/25/3363086

The Willows, Road from Mayview to junction at Yates Farm, Malswick, Newent Parish, Gloucestershire, GL18 1HF

- 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 Nigel Grinnell against the decision of Forest of Dean District Council.
 - The application Ref is P1171/24/FUL.
 - The development proposed is for 'change of use of annexe to C3 dwelling and single storey rear extension'.
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Decision

1. The appeal is allowed and planning permission is granted for change of use of annexe to C3 dwelling and single storey rear extension at The Willows, Malswick, Newent Parish, GL18 1HF in accordance with the terms of the application, Ref P1171/24/FUL, and the plans submitted with it, subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs was made by the Forest of Dean District Council against Mr Nigel Grinnell. This application is the subject of a separate decision.

Preliminary matters

3. The original application was for a '*proposed existing annex, extended to 2-bedroom C3 dwelling*'. However, the Decision Notice describes the development as '*change of use of annexe to C3 Dwelling and single storey rear extension*'. I consider the latter to be more accurate and have therefore used this above.
4. The appellant submitted a new Preliminary Ecological Appraisal (Richard Tofts Ecology, February 2025) (PEA) and a 'Transport Appeal Statement' (Rappor, March 2025) as part of the appeal. The Council has commented on both submissions in its statement and there has been no third-party comment on the site at either the application or appeal stages. I am therefore satisfied that no prejudice has been caused to any party by my acceptance of these.
5. Although not forming a reason for refusal, the Council's planning officer's report and statement of case also state that the change of use to a 'severed dwelling' is not acceptable in the open countryside. The appellant has had the opportunity to respond to these issues. I therefore do not consider that prejudice would be caused from my assessment of the suitability of the location as a main issue and have proceeded on this basis.

6. The Council does not have a 5-year housing land supply and confirmed by email (25 July 2025) that the estimated housing land supply figure for the district is between 1.93 and 2.45 years. The appellant has not sought to challenge this figure, and I see no reason to come to a different conclusion.
7. The Forest of Dean District Council Core Strategy (CS) was adopted in 2012 and therefore significantly pre-dates the more recent National Planning Policy Framework (the NPPF). Paragraph 232 of the NPPF directs me to give the policies due weight according to their degree of consistency with the Framework. Where necessary, I review local policy in this context below.

Main issues

8. The main issues are:
 - whether the site is in an appropriate location having regard to development of housing in the open countryside, with particular reference to re-use of previously development land and sustainable transport options
 - the effect on highway safety

Reasons

Background

9. 'The Willows' is a detached cottage with multiple outbuildings, one of which was converted into a 1-bedroom annex in for a family member in about 2010. The appellant has explained that this person is now the carer of the disabled occupant of the Willows and needs a larger house for their growing family. A lawful development certificate for change of use from a stable block to a residential annexe ancillary to the main dwelling was issued in September 2024.
10. The subject of this appeal is change of use of the annex to an independent, 2-bedroom dwelling with a single-storey extension of approximately 6.5 m depth to the rear. The proposal also includes formal demarcation of a private garden to the rear. Access and parking would continue to be shared with The Willows.

Location in the open countryside

11. The site is not within a settlement boundary and is therefore defined as being in the open countryside. The CS requires that development of housing is focused on towns and villages, with some exceptions according to local need.
12. The appellant has explained that there is a need for a carer to stay on the site. Although I have no reason to doubt the veracity of the statement, I have not been provided with any details to support this. However, as it is not anyway proposed that occupancy of the house should be constrained on this basis, I can only give this factor very limited weight. A local need has therefore not been demonstrated and there is conflict with Policies CSP.4 and CSP.16 of the CS.
13. However, Policy CSP.5 of the CS states that priority will be given to development on previously developed land (PDL). There is nothing in the policy that explicitly constrains such development to sites located within settlement boundaries and I conclude that it applies in the open countryside.

14. The policy is consistent with paragraph 89 of the NPPF, which states that development of PDL in rural areas should be encouraged 'where suitable'. Whether the land is 'suitable' will be considered in the final balance. I therefore give full weight to this policy and conclude that there is both local and national policy support for development of PDL in such a location.
15. PDL is defined in the NPPF as '*land which has been lawfully developed... and is occupied by a permanent structure*'. The land is in part occupied by a permanent structure in the form of the converted stable block. This was last occupied by a residential annex and, for the avoidance of doubt, I am content it is not excluded from the definition of PDL through last being occupied as an agricultural building.
16. The remaining part of the plot is currently in use as a garden associated with the annex. The Council states that the site cannot meet the definition of PDL because this excludes residential gardens. However, the exclusion in the NPPF is '*land in built-up areas such as residential gardens*'. This is not a built-up area and this exclusion does therefore not apply.
17. However, for the garden to meet the definition of PDL, it would need to have formed part of the curtilage of the developed land. The appellant describes this area as currently being in use as a 'semi-private garden' and that it is largely separated from the main house by a line of trees. This is consistent with my observations on the site. On this basis, I am satisfied that this garden area forms part of the curtilage of the structure. I conclude that the whole site meets the definition of PDL. Development at this location is therefore consistent with Policy CSP.5 of the CS.
18. There are two bus stops in proximity to the site that provide regular services between Gloucester, Newent and Ross-on-Wye. While it may be more comfortable if they had infrastructure associated with them, this arrangement is not unusual for a rural hail-and-ride bus stop. I conclude that there is an accessible, suitable public transport option nearby.
19. Cycling is unlikely to be an attractive option for many people because the road is busy, fast and unlit. However, the distances to nearby villages and towns are short and more confident cyclists could easily reach the closest facilities. I conclude that cycling is an alternative, albeit one that is unlikely to be used by many people. For the same reasons I come to the same conclusion for pedestrian access to and from the site.
20. Policy CSP.4 is written specifically for development at settlements, which does not apply in this case. Policy CSP.5 is also referenced in the reasons for refusal, which is for strategic housing; it is not explained how this applies to sustainable transport options and I have therefore not considered it further in this context. Policy CSP.16 is a settlement policy for villages, which also does not apply in this case. No local policies for sustainable transport options for development in the open countryside have been put before me.
21. I therefore turn again to the NPPF. Paragraph 110 requires maximisation of sustainable transport options for significant development, which this is not. Notwithstanding this, I note that this proposal would offer a genuine choice of transport modes because it has a bus stop opposite, and that some allowance should be made at a rural location for the likely challenges of cycling and walking.

22. Paragraph 115 states that applications should ensure that sustainable transport modes are prioritised taking account the vision for the site, the type of development and its location. Given that there is a regular bus service in proximity to the site and that the development is small and in a rural area, I do not find any conflict with this policy.
23. In conclusion, I have found that the site meets the development of PDL and development at this location is therefore supported by CSP.5. The location has appropriate access to transport options. I do not find any conflict with local policies, nor with paragraphs 110 and 115 of the NPPF in this regard. For these reasons, I conclude that the site is an appropriate location for development of housing.

Highway safety

24. The site is located on a fast and busy rural road. Visibility to the north is impeded after about 100 metres distance by a bend in the road, which is less than the Council's recommended visibility splay of 160 metres.
25. The officer's report states that because the use would be 'intensified' it must comply with current design guidance. The development would only add one extra bedroom to an established residential site, and it would generate a similar number of trips to the current use. Any additional risk to highway safety would be negligible and this must be allowed for when assessing the harm.
26. The access is wide enough for two cars and there is a large parking area immediately behind this. There is therefore no reason to linger on the main road when entering, which reduces risk. I also note that this type of entrance and the degree of visibility is typical of those in the area, and that there are no recorded accidents in the vicinity of the site over a period of some years. Overall, I conclude that the site can be safely accessed and exited by car and the increase in risk to highway safety from the development would be negligible.
27. The lack of infrastructure at the bus stops adjacent to the site is not unusual for a rural area and I observed that the road can be crossed safely. Occupation of a single additional bedroom would not make the highway any less safe in this regard.
28. The Council's reason for refusal on this matter references Policy CSP.1 of the CS. This policy does not specifically refer to highway safety. It does require consideration of '*whether the existing infrastructure is adequate*' which, although I am not persuaded is necessarily a matter of highway safety, for the avoidance of doubt I find is met in relation to the bus stop.
29. No specific local policies for protection of highway safety are before me and I therefore turn to the NPPF. Paragraph 115 states that '*safe and suitable access to the site*' must be achieved. For the reasons above, I conclude that visibility is sufficient, and safe ingress and egress can be achieved. The risk to highway safety would not be exacerbated from the additional occupancy from one bedroom.
30. Paragraph 116 of the NPPF states that development should only be refused on highways grounds if there would be an unacceptable impact on the highway safety. For the reasons above, I do not find this to be the case.

31. In conclusion, there would be no effect on highway safety from the development, and the site can be accessed safely. There is no conflict with local and national policies in this regard.

Other matters

32. The site falls within the buffer zone for the Wye Valley and Forest of Dean Bat Special Area of Conservation (SAC), which is approximately 9.5 kilometres away. The PEA, which included a bat survey, found no evidence of bats on the site. The building and surrounding trees are assessed as having negligible bat roost potential. I see no reason to come to a different conclusion.
33. A lesser horseshoe bat maternity roost is recorded approximately 1.5 kilometres to the south-east. The PEA identified that the appeal site could contribute to the associated foraging habitat, noting that there is more suitable habitat in the intervening area. However, given this small possibility, the PEA recommends good practice, including bat boxes, is secured in a condition. It has also been demonstrated that the development would not result in an adverse effect on the integrity of the European Site.
34. The site also falls within an amber impact risk zone for great crested newts because there are ponds within 250 metres of the site. The PEA concludes that the features that would be affected by this development are unsuitable for great crested newt habitat and I have no reason to come to a different conclusion. It is however, recommended that good practice measures are adopted and I return to this in the conditions below.
35. The PEA recognises that there the development has the potential to impact nesting birds and appropriate working methods should therefore be secured by condition. I am satisfied that this would provide the required mitigation.
36. The development is 'self-build' and it is therefore exempt from BNG. However, paragraph 187 of the NPPF recommends that development provides net gains for biodiversity. The PEA therefore recommends actions to meet this requirement, including replacement of an apple tree and additional hedging, which can be secured by a condition.
37. In conclusion, there would be no harm to protected species or habitats, subject to mitigation measures being secured by conditions.

Planning conditions

38. I have considered the suggested conditions taking into account the policies in the NPPF and the advice given in the Planning Practice Guidance. I impose some of them, amending wording in the interests of conciseness, precision and enforceability. Where conditions must be commenced prior to the development, the appellant has agreed to these in writing.
39. Condition [1] imposes the standard time limits for the development to commence. I have imposed a condition [2] that lists the approved plans for reasons of certainty.
40. Condition [3] requires that details of foul drainage are provided to ensure that it is disposed of appropriately. Although foul drainage is already installed in the annex, given the additional bathrooms and larger kitchen, I am satisfied that inclusion of this condition is reasonable.

41. Condition [4] requires that the recommendations in the PEA are implemented in full. This is for the purpose of protecting the ecological interests of the site and any protected species. Amongst other things, the PEA provides details of bat boxes, a hedgehog house and a sparrow terrace, and I have therefore not imposed separate conditions to control these. However, the wording for prevention of external lighting in the PEA is ambiguous and I have therefore imposed condition [5] to control lighting for the purpose of enforceability. Implementation of the recommendations in the PEA for landscaping also fulfils the general requirement in the NPPF for net gains for biodiversity.
42. I have not imposed a condition to remove permitted development rights. There is nothing before me to suggest that there is any risk to the character and appearance of the area from undertaking permitted development and it has therefore not been demonstrated that it is necessary.
43. I have not imposed a condition requiring an electric vehicle charging point. Whilst this may be desirable, the reason given does not point to a specific requirement in policy and it has not otherwise been demonstrated that this is necessary to make the development acceptable. Notwithstanding, I note that this is anyway committed to in the proposed block plan.
44. I have not imposed a condition to control surface water. I am mindful that the development is for a change of use with a modest extension to the rear. It is not in an area identified to be at risk of flooding and there is no suggestion that there would be any risks to the surrounding environment from disposal or displacement of surface water.
45. I have not imposed a condition requiring provision of and maintenance of visibility splays to a minimum of 160m from the access point. This is not physically achievable to the north because of the bend in the road and it is therefore not a reasonable requirement. Neither is the requirement to provide proof of land ownership because this is not clearly linked through any mechanism to maintenance of the lines of visibility. However, as the highway risk would not be exacerbated by the proposal, I do not anyway consider this condition to be necessary or reasonable.
46. I have not imposed a condition requiring hard and soft landscaping of the site. The stated purpose for this is 'good design and incorporation of biodiversity'. The only building works on the site are a modest extension to the rear of the building, which is not visible from the public domain. BNG is not a requirement at the site and biodiversity is protected through implementation of the PEA in Condition [4], which includes requirements for introduction and maintenance of sufficient new landscaping. A requirement for further details of landscaping is therefore not justified.

Planning balance

Assessment against the local development plan

47. There is no provision in local policy for development of open market housing in the open countryside and the proposal is therefore in conflict with Policy CSP.4 of the CS. However, I have concluded that the site meets the definition of PDL and Policy CSP.5 prioritises such development. I conclude that the conflict with Policy CSP.4 is negated by the local plan's support for development on PDL.

48. No local policies in relation to provision of sustainable transport in a rural area have been provided. When measured against paragraphs 110 and 115 of the NPPF, and mindful that this would not be a significant development, the nearby bus stops provide a genuine choice of transport mode through a regular bus service, and the distance to nearby villages and towns would be achievable by bike or foot, albeit these would not be attractive options for most people. I conclude that the national policies in relation to sustainable transport are met.
49. I have not been provided with local policies for specific protection of highway safety. I have concluded that although visibility to the north of the site is lower than the guideline, safe and suitable access is provided in accordance with paragraphs 115 and 116 of the NPPF. In coming to this conclusion, I have also taken into account that the development would produce a similar number of trips to the current residential use and that the access is typical of those in the area. I have also concluded that the safety of the local bus stops is suitable for a rural area.
50. The proposal would deliver an open market house, consistent with the aspiration to deliver housing in Policy CSP.16. As this is a single dwelling, the benefit from this is small.
51. I do not find that there is conflict with the local development plan when read as a whole.

Paragraph 11d) of the NPPF and comparison against national policies

52. The local housing supply is between 1.93 and 2.45 years. Paragraph 11(d) of the NPPF is therefore engaged. This means that the adverse impacts of approving the proposal must significantly and demonstrably outweigh the benefits when weighed against the policies in the NPPF taken as a whole.
53. Paragraph 61 of the NPPF describes the Government's objective of significantly boosting the supply of homes and the requirement to meet an area's identified housing need. Given that the proposal would deliver housing in an area where there is a significant shortage of supply, it is consistent with this policy, albeit the benefit from one house is small.
54. Paragraph 89 of the NPPF requires that rural housing meets local needs. The development would not be linked to a specific local need, and I therefore find some conflict with this policy.
55. However, paragraph 89 of the NPPF states that development of PDL in rural areas should be encouraged 'where suitable'. 'Suitable' is not defined in the NPPF. The site has been in residential use for some years without any reported issue and I see no reason why it would be unsuitable for this to continue. I conclude that this policy is met and, as above, I consider that the use of PDL negates the conflict with policy that protects development of the open countryside from open market housing.
56. The site is a modest distance from local villages and towns, which are easily accessible by bus, and potentially by bike and foot. I conclude that the requirement in paragraph 83 to locate housing where it will enhance or maintain the vitality of rural communities is met.

57. I have not found conflict with paragraphs 115 and 116, which protect highway safety. Nor have I found conflict with paragraph 110, which promotes sustainable transport options.
58. I conclude that the adverse impacts of approving the proposal would not significantly and demonstrably outweigh the benefits when weighed against the policies in the NPPF taken as a whole.

Final balance

59. Applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, I have concluded that the proposal meets the development plan when read as a whole, and this conclusion is supported by the NPPF, which is a material consideration of significant weight.
60. For this reason, the appeal is allowed.

B Davies

INSPECTOR

Schedule of Planning Conditions

- 1) The development hereby permitted shall take place not later than three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following plans:
 - As Existing Block Plan (3NW-TW-AB-001-As Existing Plans) (March 2024)
 - As Proposed Block plan (3NM-TW-AB-003A-Block Plan) (March 2024)
 - As Proposed Plans (3NM-TW-AB-002) (March 2024)
- 3) No development shall commence until details of a scheme for the provision of foul drainage has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details, timetable and programme.
- 4) The development shall be carried out in strict accordance with the recommendations in Sections 4.8, 4.9 and 4.10 of the Preliminary Ecological Appraisal, Richard Tofts Ecology (February 2025). All the recommendations shall be implemented in full according to the timescales laid out in the recommendations or within 12 months of the first occupation of the development hereby approved and shall thereafter be permanently maintained for the stated purposes of biodiversity conservation for the duration of the development.
- 5) No external lighting shall be provided other than the maximum of one external LED downlighter above or beside each external door (and below eaves height) with a Corrected Colour Temperature not exceeding 2700K. Every such light shall be directed downwards with a 0 degree tilt angle and 0% upward light ratio and shall be controlled by means of a PIR sensor with a maximum over-run time of 1 minute. Lighting shall be maintained thereafter in accordance with these details.