



Appeal Decision

Hearing held on 16 March 2017 and 10 May 2017

Site visit made on 22 June 2017

by Rachel Walmsley BSc MSc MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 07 September 2017

Appeal Ref: APP/P1615/W/16/3158845

Land East of Lydney Road, Yorkley, Gloucestershire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by ORB Developments against the decision of Forest of Dean District Council.
 - The application Ref P1059/15/OUT, dated 15 July 2015, was refused by notice dated 14 September 2016.
 - The development proposed is construction of up to 37 dwellings, provision of additional car parking for the primary school, landscaping, highway improvements and access.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by the Forest of Dean District Council. This application is the subject of a separate Decision.

Procedural matter

3. Whilst the planning application form stipulates that the outline planning application is for access and layout only, with matters relating to appearance, landscaping and scale reserved, parties agreed at the Hearing that the application was for access only. I have dealt with the appeal on this basis, treating all plans as illustrative, except where they deal with matters of access.

Main Issues

4. These are:
 - (i) the effect of the proposal on landscape character; and,
 - (ii) whether the development proposed would provide a safe and suitable access.

Reasons

Landscape Character

5. Paragraph 109 of the National Planning Policy Framework (the Framework) seeks to protect and enhance valued landscapes. In the absence of any agreed

- definition of valued as used in the Framework, I consider that to be valued the landscape would need to show some demonstrable physical attributes.
6. The site is not subject to any national landscape designations but is part of the National Character Area 105 (Forest of Dean and Lower Wye) and is within The Allaston Ridge Character Area which is identified within The Forest of Dean Landscape Character Assessment¹ as having landscape features of merit. Exposed ridge tops within the wider area provide extensive views and rise above the neighbouring vale landscapes and border a wooded syncline. Squatter settlements can be found on the fringes of the woodland. A wooded syncline is visible to the north of the appeal and is separated from the open farmland to the south by Yorkley village. In views from the south, the tops of the trees can be seen above the houses. This is a characteristic identified within the Character Assessment and also gives the area a verdant and rural character. To the east of the appeal site is a ridge line which provides expansive views although there is no direct public access to this part of the ridge.
 7. The appeal site itself extends west from the ridge line and south from the village of Yorkley and is bound to the west by Lydney Road to the south by open pasture land and hedgerows. The site is in agricultural use, used for pasture and grazing, and is an open field with limited vegetation except for the hedgerows around the boundaries of it. The field, being open, facilitates views of the wooded syncline and the adjoining settlement. Views of the site from other directions are largely glimpsed views given the set back of the site behind existing hedgerows and below the ridge line to the east. The site itself contributes little to the landscape features directly, however, it does contribute to the rural and verdant character of the area in general and facilitates views of the wooded syncline and adjoining settlement which are noted as features of landscape importance.
 8. Taking these factors into account, and noting that the site does not benefit from the protected status afforded by government for exceptional beauty, the appeal site is not the valued landscape that paragraph 109 of the Framework seeks to protect and enhance. Nonetheless, Policy CSP1 of the Core Strategy² seeks development that conserves, preserves or otherwise respects important environmental characteristics, including their wider context. This policy is consistent with the environmental objectives of the Framework, notably with regards to matters of design and environmental protection and enhancement and is not a relevant policy for the supply of housing. Therefore it is not caught by paragraph 49 of the Framework in light of the Council's inability to demonstrate a 5 year supply of housing. This policy therefore, attracts full weight.
 9. The development would have a discernible presence, dominating views from the south, along Lydney Road. This would obscure views of the settlement and the wooded syncline behind which in turn would lessen the role these landscape features play in the local area. In addition, the rural character of the area in which buildings nestle into the verdant landscape would be harmed by the prominence of the buildings proposed. The intention to landscape the frontage to the street would contribute to the rural appeal of the area but

¹ Landscape Character Assessment: Gloucestershire and Forest of Dean. Forest of Dean Landscape Character Assessment, Final Draft Report (November 2002)

² Forest of Dean District Council, Core Strategy Adopted Version (23 February 2012)

would not mitigate the harm identified as a result of the scale and position of the buildings proposed.

10. I recognise the illustrative nature of the layout proposed and that the relationship of the buildings to the land would be considered in more detail at the reserved matters stage of planning, if the appeal was allowed. However, I have considered the details before me as they show how the site could be developed with 37 dwellings. The illustrative details suggest that the buildings would sit on the contours, emphasizing their prominence and creating a development that would relate poorly to the lie of the land and its surroundings. I note references within the Residential Design Guide³ to minimising 'cut and fill' in the interests of conserving soils and habitat. However, there is nothing with the evidence before me to suggest that the natural resources of the existing site should be conserved over and above some cut and fill and the related benefits to visual character that this would have.
11. The illustrative plans show that some properties would be side-on to the road which would appear incongruous and out of keeping with the prevalent form of frontage properties within the street. The layout of the development would also be heavily focused on its own access road which would create a development that would be largely inward looking and disconnected from its surroundings. Consequently the development would fail to create an attractive street scene or reflect the prevailing pattern of development.
12. Existing properties along Lydney Road front the street and are an extension of the existing settlement. Developing the site would extend this line of built development into the countryside. However, the modest size of the site in relation to its surroundings and the prevalence of buildings that already extend from the north along Lydney Road means that the development in principle would not undermine the existing form of settlements for their character to be lost. Similarly, in mirroring built development on the opposite side of the road, the development would not introduce built form onto a site that would appear decidedly incongruous in relation to existing settlement patterns. The appropriateness of the development within the landscape, however, relates as much to the principle of development on the site as it does to matters such as scale, form and layout. It is with reference to the latter that I have found harm.
13. The details before me indicate that the development would be visible within long distance views from the west, from areas such as Whitecroft. There is nothing before me to suggest that views from this direction are of notable value and given the distances involved, the development would not have a discernible adverse effect on these views to be considered harmful to local landscape character. Given that the new dwellings would sit below the existing ridge line, the development would also not undermine the role the ridge plays in the local landscape.
14. I have nevertheless found that the development would have a discernible adverse effect on landscape character and would appear incongruous within its surroundings. As a result the development would not be the form of development which policy CSP1 of the Core Strategy seeks to deliver.

³ Forest of Dean Residential Design Guide, Supplementary Planning Guidance, 6 August 1998.

Access

15. I have before me different visibility splays depending on the traffic speed restrictions proposed along Lydney Road. It is nevertheless common ground that in the interests of highway safety, a 20mph speed restriction should accompany the development, along with necessary visibility splays and traffic calming measures. In light of the evidence before me I find no substantive reason to consider otherwise.
16. Based on a vehicle speed of 20mph, adequate vehicular visibility splays at both access points could be achieved. However, to ensure that vehicles travel at this speed, traffic calming features north and south of the access points are necessary, together with a pedestrian crossing and associated works in-between. School buses use Lydney Road, as do other large vehicles including lorries and HGV's. The combined width of the carriageway and the footpath north of the northern traffic calming measure would not be sufficient for large vehicles such as buses, and pedestrians, to pass in both directions without conflict. This restricted width would result in large vehicles mounting the pavement to pass. It was evident from my observations on site that at school pick up times in particular, buses were prevalent. There is, therefore, the likelihood that two large vehicles, such as buses, would need to pass each other. Furthermore, the increase in vehicular movements as a result of the development would exacerbate the conflict and associated dangers identified.
17. I note the comments from the Road Safety Audit on the proposals. However, the concluding comments refer to the level of risk to cyclists. In the absence of any substantive evidence to demonstrate that the traffic calming proposals would not result in harm to drivers and pedestrians, my findings for the inadequacies of the traffic calming scheme still stand.
18. The bus stop proposed to the north of the southern traffic calming feature would be within close proximity of the latter. I have no doubt that a bus pulling away from the bus stop could encounter the speed hump before all passengers have sat down. Furthermore, the visibility of the traffic calming warning sign for a northbound driver approaching the southern traffic calming feature would be restricted by vegetation, oncoming vehicles and the curvature in the road. However, the curve in the road would naturally slow down vehicles and therefore give drivers more time to observe the give way road alignment. Overall I do not consider that these limitations would result in a material harm to highway safety.
19. I recognise that agreements were reached between the appellant and the Council's Highways Authority and the Council itself on highway matters and indeed, if planning permission was to be granted, traffic calming measures would be subject to further consultation. However, I am required to make my decision on the basis of the information before me. I have evidence of the traffic calming scheme proposed being substandard for the reasons given.
20. Given the inseparable nature of the traffic calming scheme from the visibility splays, it would be improper for me to allow one without the other. Whilst, therefore, I have found that adequate visibility splays could be provided for a speed of 20mph, the shortcomings in the traffic calming scheme undermine the suitability of the visibility splays. I have considered securing details of traffic calming by condition but as the access is a fundamental part of the planning application, this would be unreasonable.

21. For the reasons given I have found moderate harm to highway safety as a result of the northern traffic calming feature proposed. Given the indivisible nature of the traffic calming scheme and visibility splays, I find that the development would not provide a safe and suitable access to the site. This is in direct conflict with paragraph 32 of the Framework.

Other considerations

22. The Council confirms that it cannot demonstrate a five year supply of deliverable housing sites. A development of the scale proposed, to include market and affordable housing, is a benefit which carries significant weight.
23. The development would help realise some benefits for the school, not least off-street parking provision and access to an area for play. This matter carries moderate weight.
24. The development would support the local economy via construction jobs and local expenditure and through Council Tax and New Homes Bonus revenue. The involvement of new contractors and small and medium sized builders is also of benefit. However, the evidence does not point to the appeal site being the only place in the district where these benefits could be realised and therefore the benefit of the development to the local economy would be of moderate weight.
25. No specific harm or benefit has been identified regarding matters such as good design, flooding and archaeology. These matters, therefore, have no weight.

Other matters

26. In light of the concerns raised by the Council and the evidence before me, the weight afforded to policy CSP4 of the Core Strategy and the implications of this for the development proposed is not a decisive matter in the context of landscape character and access to have any influence in my decision.

Planning balance and conclusion

27. As the Council cannot demonstrate a five year supply of deliverable housing sites, paragraph 14, bullet 4 of the Framework is engaged. Whilst there are no specific policies within the Framework to indicate that the development should be restricted⁴, the harm to landscape character would be significant. Combined with this is the moderate harm found to highway safety because of the lack of a safe and suitable access.
28. Weighed against this is the significant contribution the development would make to the Council's need for housing and the moderate benefits to the local economy and existing school. The harm identified significantly and demonstrably outweighs the positive contribution the proposal would make to the shortfall in housing provision and the economic and social benefits identified. Therefore, in accordance with paragraph 14 of the Framework, planning permission should not be granted.
29. In all, for the reasons given above and having regard to all matters raised, the development would be contrary to the development plan and the Framework, and therefore the appeal is dismissed.

⁴ As set out at footnote 9 of paragraph 14 of the Framework.

R Walmsley

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Michael Davies	Davies Landscape Architects
Paul Fong	Hunter Page
Nicholas Harman	Illman Young
Hywel James	Hunter Page Planning
Robin Johnson	F.W.Johnson Ltd
Craig Rawlinson	Transport Planning Associates
Adam White	Hunter Page

FOR THE LOCAL PLANNING AUTHORITY:

Stephen Colgate	Forest of Dean District Council
Ron Kelly	2 Millwood, for the Forest of Dean District Council
Sarah Toomer	Forest of Dean District Council

INTERESTED PERSONS:

Nick Bradshaw	Connect Consultants
David Chappell	Cherry Tree Cottage, Yorkley Wood
Julie Cockle	Fieldway, Lydney Road
Andrew Darke	Field House, Yorkley Wood
Dawn & Peter Large	Corner House, Shap House Lane
Peter Dunford	West Dean Parish Council
Steve Fagan	Woodbine Cottage, Yorkley Wood Road
Sharon Freeman	2 Arlin Cottages, Lower Road
Ian Hodgkinson	Montrose, Bailey Hill
MC Humphreys	Orchard Rise, Bailey Hill
Andrew James	Cranleigh House, Bailey Hill

Pauline James	Cranleigh, Bailey Hill
Barrie Mills	Shandon, Beech Road
John & Wendy Preest	Chems Patch, Bailiey Hill
Carol Robinson	Byways, Oldcroft Road
Mike & Margaret Rose	'Serendipity', Bailey Hill
Kris Ventris Field	Wisteria Cottage, Lydney Road

DOCUMENTS SUBMITTED DURING THE HEARINGS

Document 1 – Email dated 15 March 2017 regarding comments from the Treasurer of Pillowell Village Hall.

Document 2 – Email dated 15 March 2017 from Forest of Dean District Council regarding comments from Chris Masters.

Document 3 – Email dated 15 March 2017 from the Office of The Rt Hon Mark Harper MP regarding comments from third parties.

Document 4 – Signed copy of Statement of Common Ground dated 16 March 2017.

Document 5 – Letter dated 10 March 2017 from FW Johnson Ltd.

Document 6 – Comments from the Treasurer of Pillowell Village Hall dated 15 March 2017.

Document 7 – Unilateral Undertaking, signed and dated 15 March 2017.

Document 8 – Plan ECO3: Protected Species.

Document 9 – Copy of Policy AP64 of the Forest of Dean District Council, Allocations Plan Submission Draft, August 2015.

Document 10 – Objection from Andrew Darke, dated 2 May 2017.

Document 11 – Forest of Dean District Council, Application of Costs by the Local Planning Authority.

Richborough Estates