
Appeal Decision

Site visit made on 7 December 2016

by Andrew Dawe BSc(Hons) MSc MPhil MRTPI

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

Decision date: 23 January 2017

Appeal Ref: APP/P1615/W/16/3158656

Land at Wall Weir, Tidenham Chase

- 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 Peter Evans against the decision of Forest of Dean District Council.
 - The application Ref P0575/16/FUL, dated 25 April 2016, was refused by notice dated 22 June 2016.
 - The development proposed is erection of agricultural shed.
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Decision

1. The appeal is allowed and planning permission is granted for erection of agricultural shed at Land at Wall Weir, Tidenham Chase in accordance with the terms of the application, Ref P0575/16/FUL, dated 25 April 2016, subject to the conditions in the attached Annex.

Application for costs

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

Procedural Matters

3. The Council, in its decision notice, refers to emerging Policies AP.1, AP.4, AP.5, AP.7 and AP.29 of the Forest of Dean District Council Allocations Plan Submission Draft, August 2015 (the Allocations Plan). Although this plan has not yet been adopted, it is at the stage where the Council is in the process of considering clarification required by the Examining Inspector on the Council's Main Modifications. Furthermore, those policies referred to seem broadly consistent with the principles of the National Planning Policy Framework (the Framework) and so I have given them some weight in my consideration of this appeal, having regard to paragraph 216 of the Framework.
4. The Council also refers in its decision notice to its Landscape Supplementary Planning Document (the SPD) and the Wye Valley Area of Outstanding Natural Beauty Consultation Draft Management Plan 2014-2019 (the AONB Draft Management Plan). I have applied some weight to those documents due to their role in supporting the relevant development plan policies.

Main Issues

5. The main issues are:
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- i) The effect of the proposed development on the character and appearance of the Wye Valley Area of Outstanding Natural Beauty (AONB);
- ii) The effect of the proposed development on the Wye Valley Woodland Special Area of Conservation (SAC), the River Wye SAC and the Wye Valley and Forest of Dean Bat SAC.

Reasons

Character and appearance

6. The Framework sets out in paragraph 115 that great weight should be given to conserving landscape and scenic beauty in Areas of Outstanding Natural Beauty. Furthermore, in paragraph 17 it states that planning should, amongst other things, take account of the different roles and character of different areas, recognising the intrinsic character and beauty of the countryside.
7. The site is in a remote wooded location within the AONB close to the River Wye, accessed from the B4228 via a long Forestry Commission track.
8. The proposed building would be of a fairly substantial size but its single storey nature, albeit with a fairly steep pitched roof, would nestle comfortably within an area of cleared land surrounded on three sides by noticeably taller and dense woodland trees. I note that the enterprise currently has various scattered storage areas, equipment and structures within the site that would be consolidated within the building. The size of building would also take account of a proposed expansion of the enterprise.
9. It would be a stone construction with reclaimed clay tile roof which would therefore be likely to represent a high quality appearance in itself comprising materials that would be likely to enable the building's assimilation into this rural woodland setting. I note that there are few other manmade structures in the vicinity. However, those materials together with the discrete location, aided by the significant screening from surrounding woodland, would prevent it from standing out as a stark and jarring feature of the wider landscape.
10. It would only be likely to be glimpsed, if at all, from passing cars on the fairly distant A466 set at a significantly higher level on the opposite side of the valley where there are also trees which would provide a high degree of screening or softening. Proposed new tree planting between the building and river would further soften or screen the building. It would be unlikely to be visible from any other public vantage points due to the density of intervening trees, even with their leaves off in the winter months.
11. Furthermore, in respect of the generally tranquil nature of the AONB, I have had regard to the site already being in use in connection with the proposed ongoing enterprise. There is also already potentially noisy activity associated with the nearby Forestry Commission land, including along the access track. Furthermore, the proposed building would be likely to accommodate much of the potentially noisy activity such as wood processing. Comings and goings to the site would also be unlikely to significantly increase with the expansion of the enterprise, whereby the building would, for example, enable greater bulk storage capacity, including for food and fresh water.

12. In terms of any potential light pollution the appellant has stated that no external lighting would be required. It may be the case that activities outside may be necessary during hours of darkness, such as attending to animals in an emergency or in situations during the reduced hours of daylight in the winter. However, I have no basis to consider permanent external lighting would be needed and as such it would be reasonable to control this by a condition. As activities such as wood processing are proposed to be within the building, any lighting in that respect would be internal. Any lighting effect externally would be restricted to that coming from the windows and ventilation slots and therefore unlikely to be to an extent as to cause widespread light pollution.
13. Concern is raised that the building is more akin to a residential design and that it could be converted as such, including insertion of a first floor. Whether or not that could be the case, the proposal is not for residential accommodation and any future intention to convert it would be subject to meeting the criteria set out in Class Q of Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development)(England) Order 2015.
14. In terms of whether or not it would have more of a residential appearance than agricultural and whether it would be appropriate for modern agricultural practices and machinery, I note that it would be of a typically simple form for efficient agricultural use. Furthermore, it would have moderately large double access doors for larger objects or machinery as well as the pedestrian access, together with ventilation slots that would prevent unwanted moisture in respect of the stored materials. Window openings are proposed which would, not unreasonably, provide natural light into the building together with provision for security shutters. I am therefore satisfied that it would take an appropriate form and appearance pertaining to agricultural use.
15. I have had regard to the Council's concern that the size, including both the floor area and internal height, would be excessive for the required needs. Notwithstanding the appellant's future intentions to expand the enterprise and to consolidate storage and other activities on the site into the building, I have found that it would not be an intrusive form of development in the context of the AONB. As such, even if the Council is correct in its claims relating to need, that factor is not one to which I have applied over-riding weight.
16. For the above reasons the proposed development would not cause unacceptable harm to the character and appearance of the AONB. As such, it would accord with policy CSP.1 of the Forest of Dean District Council Core Strategy (the Core Strategy), policies AP.1, AP.4, AP.5 and AP.29 of the Allocations Plan as well as the SPD and AONB Draft Management Plan, which together, in respect of this issue, require development to be of a high quality design and construction that takes account of the character and appearance of the area. It would also accord with paragraphs 17 and 115 in respect of this issue.

Effect on SACs

17. The site is in close proximity to the Wye Valley Woodland SAC, the River Wye SAC and the Wye Valley and Forest of Dean Bat SAC. I have however had regard to the existing situation comprising an agricultural operation on the site. I have not received any evidence to indicate that it is not a lawful use of the land or that, in principle, it could not expand as such with or without the proposed building. However, I acknowledge that it would inevitably be more

difficult to expand without a permanent building that would enable the on-site operations to be carried out more efficiently, with greater security. As previously referred to there also remains the potentially noisy activity associated with the management of the surrounding Forestry Commission land including comings and goings along the same access track as used by the appellant.

18. Although the appellant intends to expand the enterprise, the proposed building would, as referred to under the first main issue, enable much consolidation of activity to within it, thereby avoiding the likelihood of a material increase in noise and disturbance. That would also be in respect of comings and goings to and from the site for the reasons also referred to previously.
19. In terms of concerns over the effect of external lighting on bats and other nocturnal creatures, again as previously referred to, the appellant has stated that no external lighting would be required. As such, the existing activity of those creatures associated with the Wye Valley and Forest of Dean Bat SAC and the surrounding area generally including the other SACs, would be unlikely to be materially affected by the proposal in respect of lighting.
20. I note that the Council's Sustainability Officer refers to a Habitats Regulations Assessment having been undertaken in connection with a similar previous planning application for a new building on this site that was refused. The officer goes on to state that the current proposal appears not to have addressed the conclusions that the previous proposal would have been likely to result in adverse effects on the SACs.
21. However, I note that it was also recorded by that officer that Natural England's (NE) comments were awaited. I have had regard to comments from NE raising no objections on the basis that the proposal would be unlikely to have a significant effect on any European site, and can therefore be screened out from any requirement for further assessment. Based on all of the evidence before me, and as conditions could be used to prevent permanent external lighting, to control construction activity and to provide for biodiversity enhancement measures, I have no reason to consider otherwise. I am therefore satisfied that no further consideration of appropriate assessment under the Habitats Regulations is required.
22. For the above reasons, the proposed development would not cause unacceptable harm to the Wye Valley Woodland SAC, the River Wye SAC and the Wye Valley and Forest of Dean Bat SAC. As such, it would accord with policy CSP.1 of the Core Strategy and policies AP.4, AP.7 and AP.29 of the Allocations Plan which together in respect of this issue require that new development should respect wider natural corridors and other natural areas, that it should where appropriate contribute to environment enhancement, that provision should be made for net biodiversity gains for protected and priority species or habitats, that features and habitats which form parts of ecological networks shall be safeguarded, and that development will only be permitted where it can be demonstrated that it will not have an adverse effect on the integrity of any designated SAC. It would also accord with sections 7 and 11 of the Framework which respectively relate to requiring good design and conserving and enhancing the natural environment.

Conditions

23. The Council has suggested seven conditions that it considers would be appropriate were I minded to allow the appeal. I have considered these in the light of advice in the Government's Planning Practice Guidance and amended some of the wording and omitted one. The standard time condition is required in this case and for the avoidance of doubt and in the interests of proper planning, a condition requiring that the development is carried out in accordance with the approved plans would also be required.
24. In the interests of the character and appearance of the AONB, conditions would be necessary to secure details of the external facing and roofing materials proposed for the building, and, also in respect of protecting bats and other nocturnal creatures, to prevent the installation of external lighting.
25. A condition to prevent harm to the SACs during construction would also be necessary in the form of securing a Construction Environmental Management Plan. Furthermore, it would be reasonable and necessary in terms of local and national planning policy to secure biodiversity enhancement measures within the site.
26. The Council also suggests a condition to secure the removal of the building from the site when no longer required for the purposes for which it was permitted in the interests of the character and appearance of the sensitive landscape. However, I have found that the building's design and appearance would be acceptable in that landscape context. Such a condition would therefore be unnecessary and unreasonable.

Conclusion

27. For the above reasons, the proposal would be a sustainable form of development.
28. I therefore conclude that the appeal should be allowed.

Andrew Dawe

INSPECTOR

Annex – Conditions

1. The development hereby permitted shall begin not later than 3 years from the date of this decision.
 2. The development hereby permitted shall be carried out in accordance with the following approved plans: unnumbered location plan, 1518/1, 1518/2.
 3. No development works above ground level shall take place until samples of all external roofing and facing materials have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and thereafter be maintained as approved.
 4. No external lighting shall be installed at the site.
 5. No works shall take place, (including ground works and vegetation clearance) until a construction environmental management plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include the following :
 - a) Risk assessment of potentially damaging construction activities;
 - b) Identification of "biodiversity protection zones";
 - c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
 - d) The locations and timing of sensitive works to avoid harm to biodiversity features;
 - e) The times during construction when an ecological or environmental specialist needs to be present on site to oversee works;
 - f) Responsible persons and lines of communication;
 - g) The role and responsibilities on site of an ecological clerk of works or similar person;
 - h) Use of protective fences, exclusion barriers and warning signs.
- Thereafter the approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.
6. No works shall take place until a detailed scheme for biodiversity enhancement, such as incorporation of permanent roost/nest features for bats and birds (such as a barn owl nest box) and a timetable for implementation, has been submitted to and been approved in writing by the Local Planning Authority. Prior to the first occupation of the development

hereby approved, the detailed scheme for biodiversity enhancement shall be fully implemented in accordance with the approved details and it shall be retained as such thereafter.