



Appeal Decision

Site visit made on 27 June 2017

by D Boffin BSc (Hons) DipTP MRTPI Dip Bldg Cons (RICS) IHBC

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

Decision date: 26 July 2017

Appeal Ref: APP/W1850/W/17/3168668

Balance Farm, Eywood Lane, Titley HR5 3RU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Mrs Angela Vaughan against Herefordshire Council.
 - The application Ref 162824, is dated 6 September 2016.
 - The development proposed is the erection of 5 dwellings being 3 x 3 bed and a semi-detached pair of 2 bed.
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Decision

1. The appeal is dismissed and planning permission for the erection of 5 dwellings being 3 x 3 bed and a semi-detached pair of 2 bed is refused.

Preliminary Matters

2. The Council's evidence states that they would have refused the planning application for the following reason:-
 - The required visibility splays cannot be achieved at the current design speed of 60mph at the access as well as onto the B4355 road. Visibility required at the access according to Manual For Streets requires 2.4 x 63m this is not achievable in both directions nor within total ownership of the applicant. Consequently the proposal is considered to be detrimental to the interests of highway safety, contrary to policy MT1 of the Herefordshire Local Plan - Core Strategy.
3. A large number of the third party representations concern the impact of the proposal on nearby heritage assets and the appellant has had the opportunity to comment on this matter. As such, I do not consider that any party would be prejudiced by my consideration of this matter.
4. An application for the removal of a condition in relation to an agricultural worker's dwelling on an adjacent site was refused in January 2017. This decision is the subject of separate appeal¹ and in the interests of clarity, I have dealt with that appeal in a separate decision letter.

Main Issues

5. In light of the above the main issues are:-
 - The effect of the development on highway safety.
 - The effect on the settings of nearby heritage assets.

¹ APP/W1850/W/17/3168334

Reasons

6. The appeal site forms part of a hard surfaced area adjacent to a large modern agricultural building. There are a number of converted outbuildings/barns that were associated with Balance Farm, a grade II listed building, adjacent to the site. The proposal would involve the erection of 5 dwellings with access from Eywood Lane. Eywood Lane is a road of restricted width that appears to serve properties within the adjacent Eywood Park, a grade II registered park and garden.

Highway safety

7. At my site visit (middle of the day) I noted that there were relatively few vehicles using Eywood Lane. I acknowledge that at other times of the day it may be busier but there is no evidence before me to suggest that the road is normally heavily trafficked.
8. Eywood Lane bends around Balance Farm and there is a speed limit of 60mph, adjacent to the appeal site. The visibility to the east of the site is considerably restricted by the bend and a tall boundary hedge that is within close proximity of the bend. The visibility to the west is severely restricted by an entrance pillar to Eywood Park and landscaping around it. The Highway Authority have stated that the required visibility splay for an access to the appeal site, based on the guidance of Manual for Streets 2 (2010) should be 2.4m x 63m. I have no reason to dispute this.
9. I have no information before to indicate what the available visibility splays would be in both directions. However, based on my observations on site, even though the existing access is reasonably wide, I consider that the available visibility splays would be significantly below that referred to above. Eywood Lane is not heavily trafficked but the national speed limit is in place on it. Due to its restricted width and the proximity of the bend it would be likely that the majority of cars would be travelling slower than 60 mph. Nonetheless, without evidence, such as speed readings, it is not possible to ascertain with sufficient clarity and robustness that the development would achieve a safe entrance and exit from Eywood Lane.
10. The junction of Eywood Lane and the B4355 is within close proximity of the site. The B4355 appears to be a relatively busy road and I observed that vehicles were regularly passing the junction. There is a speed limit of 40 mph on the B4355 adjacent to the junction. I have no evidence before me to indicate what the available visibility splay to the south-east would be but visibility in that direction is considerably restricted by a bend and boundary treatments. The Highway Authority has stated that the usage of Eywood Lane and its junction with the B4355 should not be increased substantially with the existing 40 mph speed limit in place.
11. The appellant has referred to developments that have been granted planning permission in the surrounding area including a barn conversion scheme adjacent to the junction of Eywood Lane and the B4355. Outline planning consent for 5 dwellings has been granted on an adjacent site that would utilise the same access as the appeal site. However, I do not have the full details of the circumstances that led to these schemes being accepted. In any case, I am required to determine the appeal on its own merits.

12. Nevertheless, the proposal would substantially increase the traffic utilising the access with Eywood Lane and its junction with the B4355. The B4355 is a well-used thoroughfare with traffic moving at speeds up to 40mph. As such, I consider that the restricted visibility in a south easterly direction would result in an increased risk to the safety of highway users and as such it would cause significant harm to highway safety.
13. In conclusion, I consider that it has not been demonstrated that a safe entrance and exit from the proposed development can be achieved and that the proposal would cause significant harm to highway safety. It follows that the proposal conflicts with Policy MT1 of the Herefordshire Local Plan Core Strategy (CS). This policy seeks development which, amongst other things, are designed to achieve safe entrance and exit.

Heritage assets

14. The setting of nearby listed buildings is not cited by the Council as a potential reason for refusal. However, S.66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest.
15. Paragraph 132 of the National Planning Policy Framework (the Framework) advises that when considering the impact of development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. It goes on to advise that significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. The glossary to the Framework states that the setting of a heritage asset comprises the surroundings in which it is experienced and that different elements of that setting may either make a positive, negative or neutral contribution to its significance.
16. From the evidence before me, including the listing descriptions, I consider that the significance of the listed buildings nearby is largely derived from their form, historic fabric and particular architectural features.
17. The significance of Balance Farm is mainly experienced from within its curtilage. However due to its proximity to Eywood Lane and the B4355 its significance is also experienced in views from these roads. A number of adjacent outbuildings and barns have been converted to residential use. Whilst there is some intervisibility between the converted barns and the appeal site due to intervening vegetation there is limited intervisibility between the appeal site and Balance Farm itself.
18. The adjoining site contains a large modern agricultural building which is to be demolished and, as stated above, outline planning permission for 5 dwellings has recently been granted on that site. The settlement pattern in the surrounding area is mainly one of a dispersed nature but there is a cluster of buildings and a number of farm complexes in the immediate vicinity of the appeal site. Subject to the control that exists at reserved matters stage the proposed dwellings on this site and the adjacent site could be designed to be in keeping with the pattern of development in Titley and sensitive to local character and architectural styling. As such, I am satisfied that it would be

- possible to design a scheme which would not materially change views from Eywood Lane and the B4355 of Balance Farm and its complex of outbuildings.
19. As such, the ability to appreciate and understand Balance Farm's past connection with agricultural use would not be materially affected by development of the application site. I find, therefore, that the special interest and significance of the listed building, and its setting, would be preserved.
 20. Titley Court (grade II) lies on the opposite side of the B4355 to Balance Farm. I am satisfied that it derives heritage significance from its immediate, rather than extended, setting. There is no evidence before me, in this regard, to suggest that there would be any intervisibility with the development proposed. Accordingly, there would be no harm to the setting or significance of the listed building, and neither would the development scheme impact on the ability of the public to interpret its significance.
 21. Eywood Park is within close proximity to the appeal site. Third party evidence states that the park may have a connection to Lancelot 'Capability' Brown but the list description states that even though he visited Eywood there is no evidence that he worked at or advised on Eywood. The significance of Eywood Park derives from its historical and aesthetic value as an example of an 18th century designed landscape. The entrance to Eywood Park marked by a 19th century lodge and gateway was, historically, secondary in nature but in more recent times, it has become the main entrance. The grounds of the park, set within attractive rolling countryside interspersed with stands of mature trees, create panoramic views from Eywood Lane when approaching the entrance from Titley.
 22. However, there is tall dense planting between the appeal site and Eywood Park and as such there is limited intervisibility between the appeal site and Eywood Park. The planting may not be native species and is not permanent and views to and from the registered park and garden could be increased or decreased in the future. Nevertheless, there is no firm evidence before me to suggest that the existing situation is likely to change in the near future. Moreover, the proposal would also be seen against the backdrop of Titley in views from Eywood Park and it would have no greater impact on the setting of the park than the outline planning permission for 5 dwellings on the adjoining site. The experience and understanding of understanding of the heritage asset itself would not be materially affected.
 23. In conclusion the proposal would preserve the settings of the nearby heritage assets and it follows that it would comply with CS Policy LD4 which, amongst other things, seeks development that protects, conserves, and where possible enhances heritage assets and their settings in a manner appropriate to their significance. The proposal would also comply with section 12 of the Framework.

Other matters

24. I note the appellant's concern regarding the Council's determination of the application. However, that is not a matter for my consideration in the context of this appeal decision.
25. The site is included within the Council's Strategic Housing Land Availability Assessment (SHLAA) document and it is cited as a brownfield site. However, the site is associated with the adjacent large modern agricultural building and

the overall use for the site is agricultural. The Glossary at Annex 2 of the Framework specifically excludes land occupied by agricultural buildings from the definition of previously developed land. Moreover, the inclusion of the overall site within the SHLAA is under review.

Conclusion

26. The Council cannot demonstrate a 5 year supply of housing land (HLS) as required by paragraph 47 of the Framework. Furthermore, paragraph 49 of the Framework states that all housing applications should be considered in the context of the presumption in favour of sustainable development. Paragraph 14 of the Framework explains that there is a presumption in favour of sustainable development at the heart of the Framework, and that this should be seen as a golden thread running through both plan-making and decision-taking. It goes on to indicate that where the development plan is absent, silent or relevant policies are out-of-date, planning permission should be granted unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole; or unless specific policies in the Framework indicate that development should be restricted.
27. The appeal site is well located in respect of the settlement and its facilities and it occupies a relatively accessible location. The development as proposed would also result in support for local services and facilities, both during construction and after occupation. The proposal would also make a contribution to the local economy including the provision of construction jobs, some additional local spend and New Homes Bonus and Council Tax receipts. Given the amount of development proposed, these benefits would be likely to be modest in scale.
28. The proposal would provide 5 new dwellings in an area where there is an acknowledged shortfall but I have no detailed evidence before me in respect of either the level of undersupply or predicted housing delivery. However, as it is common ground that a HLS cannot be demonstrated, I conclude that the proposed houses would make a contribution, albeit modest, to meeting the undersupply of housing which would be a social benefit.
29. As stated above, the proposal complies with section 12 and as such the Framework does not indicate that the development should be restricted in relation to the designated heritage assets. However, I have found that the proposal would cause significant harm to highway safety contrary to the development plan policy set out above. When assessed against the Framework taken as a whole that harm would significantly and demonstrably outweigh the modest benefits associated with the scheme, including the contribution to housing supply and the relatively accessible location. Accordingly, I do not regard the appeal scheme as sustainable development overall.
30. For these reasons, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

D. Boffin

INSPECTOR