

Appeal Decision

Site visit made on 7 June 2019

by J Somers BSocSci (Planning) MA (HEC) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 26th July 2019

Appeal Ref: APP/W1850/W/19/3224840

**Land adj Herriot Cottage, Glewstone, Nr Ross-on-Wye, Herefordshire
HR9 6AT**

- 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 Mr Andrew Jackson against the decision of Herefordshire Council.
 - The application, ref. 172076, dated 10 May 2017, was refused by notice dated 5 February 2019.
 - The development proposed is the outline application for the erection of 9 dwellings; construction of new vehicular access; turning area; private roads and associated works.
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Decision

1. The appeal is allowed and planning permission is granted for the outline application for the erection of 9 dwellings; construction of new vehicular access; turning area; private roads and associated works; at Land adj Herriot Cottage, Glewstone, Nr Ross-on-Wye, Herefordshire HR9 6AT in accordance with the terms of the application, Ref: 172076, dated 10 May 2017 subject to the conditions attached as an appendix to this Decision.

Procedural Matters

2. The application was made in outline, with access and layout to be determined at this stage; and appearance, scale and landscaping as reserved matters. The Council made their decision based upon a Design and Access Statement¹, a Flood Risk Assessment and Surface Water Management Plan,² an Ecological Assessment³; a Foul Water Design⁴, a landscape Visual Impact Assessment (LVIA); location plan⁵, and associated layout and access plans⁶. These reports, statements and plans reflect the description of the development. As the Council had regard to these in determining the application, I have dealt with the appeal on the same basis.

¹ Dated May 2017

² By Hydro-Logic Services, Ref L0117 Rep.1 (Rev.2); Dated November 2018

³ By Ross Wilder, Wilder Ecology, Ref 1AJ/Ph1Eco ass.doc, Dated 20 January 2017

⁴ By Hydro-Logic Services, Ref L0117A Rep1 (Rev2); Dated November 2018

⁵ Location Plan, Proposed new residential Scheme, Drawing No 17/2267/03, By GH Design, May 2017

⁶ Plans titled 'Entrance/Turning Head proposed'; 'Crossroads – Existing and Proposed'; 'Proposed Cross Sections Through Site'; 'Location Plan'; 'Proposed Site Plan which indicates storeys of dwellings'.

Main Issue

3. The main issue is the effect of the development upon the character and appearance of the area, with particular regard to the Wye Valley Area of Outstanding Natural Beauty (AONB).

Reasons

4. The appeal site is currently a pastoral field, having been a former orchard located in between two areas of built form (to the north and south) of the settlement of Glewstone which consists of three stretches of linear development along two main roads. The site is undeveloped and has an access from the north-west boundary, with a hedgerow aligning 3 of the boundaries. The site has a varied topography with a landform that rises significantly from the western field boundary which runs parallel with Glewstone Road before reaching a plateau along the eastern section of the site.
5. The site is within the Wye Valley AONB and is supported by the Herefordshire Landscape Character Assessment 2004, updated 2009. According to the LVIA the landscape character of the appeal site is of Principle Settled Farmlands which is typified by settled agricultural landscapes of dispersed scattered forms and settlements and networks of small winding lanes nestling within a matrix of hedged fields. It is also noted that both parties refer to the area containing '*a dispersed pattern of farmsteads and hamlets capable of accommodating limited new development... low densities of dwellings would be acceptable as long as they are not sited close enough to coalesce into a prominent wayside pattern.*'
6. The layout of the proposed site is consistent with the surrounding linear pattern of development with four plots (labelled Plots 6-9 on the Site Plan) to the rear of the site adjoining the line of dwellings referred to as Lambourne and Ribstone; and five plots (labelled Plots 1-5) along the Gladstone Road boundary in line with Herriot Cottage. Whilst scale is not for approval, the Site Plan refers to Plots 6-9 being bungalows, and Plots 1-5 being two storey dwellings where Plots 1 and 2 are semi-detached in order to make these properties more affordable market housing, compared with Plots 3-5. A community orchard is proposed to be planted to the centre of the scheme between Plots 6-9 and Plots 1-5.
7. Given the changing topography of the site, the western edge of the site is where the two storey development would be located, with single storey development located to the eastern edge which would minimise views of the site from and towards the greater landscape with only the upper parts of the proposed houses being visible from the western roadside hedgerow and embankment.
8. There is a Public Right of Way (PROW) which runs along the eastern boundary of the site and this would be where the bungalows to the east would be most visible. Views to the site from the longer easterly direction and north-westerly direction are largely contained by the hedgerows along the perimeter of the site. To me, the proposed dwellings, whilst visible, would not be unduly prominent within the landscape and not experienced as a large mass of dwellings from a single viewpoint, but an organic extension to the existing built form.
9. I note comments with regards to the proposed access, which given the topography of the site as shown on the cross section plan, will require an engineered approach which is a diversion from the current accesses found along Glewstone Road. A small section of hedgerow removal is proposed to facilitate the visibility splays as required for this road which has a speed limit of 30mph.

10. The Landscape Officer comments that the amended plans go some way in mitigating the appearance of the proposed access, with amended plans showing a proposed crib wall being reduced from 4m to 2m with the soil graded back behind it to account for the remaining difference. This would reduce the visual impact of the proposal from the site entrance with the Landscape Officer recommending further stone walling with planting in front to further soften the appearance which would be a satisfactory design solution for the access.
11. I note comments from neighbouring residents with regards to the poor condition and nature of Glewstone Road and the nearby crossways intersection which is used by vehicles, agricultural machinery and pedestrians. I appreciate that the road conditions I experienced on my site visit was only a snapshot of the road at this particular time, however I have also considered the evidence submitted by both main parties and surrounding residents and, in light of this, I am satisfied that what I saw represents typical conditions. Glewstone Road like many rural roads suffers from limited width which impedes simultaneous two-way flow. Refuge areas are needed in order to allow vehicles to stop momentarily to give way to traffic coming in the opposite direction.
12. In my view it appeared that traffic volumes are fairly low and driven speeds are under the 30mph speed limit. I have not been made aware of a poor accident record and therefore I deduce that despite its deficiencies, Glewstone Road operates satisfactorily without any significant safety issues and has capacity to facilitate the additional vehicular movements created by the development.
13. It is noted that the proposed scheme seeks to provide a further two refuge areas, as well as provide a refuge place off the road in order for children waiting for the school bus, which would be utilised by proposed occupiers of the appeal site. These proposals are outside the consideration of the appeal scheme, however would go some way in relieving some of the highway concerns as described.
14. Paragraph 172 of the National Planning Policy Framework (the Framework) states that AONB's have the highest status of protection with regards to conserving and enhancing landscape and scenic beauty. At this particular location, whilst the proposed scheme would change the character and appearance of the site which will result in harm to the landscape, the surrounding context and character of the area has positively influenced the development of the site. Whilst there is harm to the character and appearance of the area and the AONB, in my view this harm is limited and localised, and is relatively mitigated by the layout and treatment of the access.
15. In conclusion on this matter, the proposed scheme would be in accordance with Policy LD1 of the CS (which amongst a number of principles seeks that landscape and townscape has positively influenced development and that development conserve and enhance the beauty of the landscape). I note reference to Policy SS4 within the Reason for Refusal, however I do not consider this policy (which relates to movement and transportation) is relevant to the consideration of harm to the character and appearance of the area including the AONB.

Other Matters

16. I note comments from residents with regards to drainage and flood risk. A Foul Water Drainage Strategy has been submitted which has suitable measures for discharging foul and surface water which is in accordance with the Herefordshire

Sustainable Urban Drainage Handbook. Based on this, I am satisfied that drainage of the site is appropriate for the proposed scheme. Turning to flooding, the appeal site is located within Flood Zone 1, which has the least likelihood of flooding. A Flood Risk Assessment has been submitted which demonstrates that the development of the subject site along with the drainage strategy should not increase the likelihood of flooding problems to the appeal site or to surrounding properties. The proposal would therefore be in compliance with Policy SD3 of the CS which amongst others, seeks measures are employed for sustainable water management in order to reduce flood risk, and to avoid adverse impact on water quality.

17. An ecological assessment which comprises a Phase 1 Habitat Survey accompanies the appeal scheme which suggests that the proposal would not adversely affect any species or habitats recorded in the wider area which includes likely impacts to any statutory or non-statutory nature conservation sites. It is noted that a number of ecological enhancements are recommended to be incorporated into the design in order to provide long term enhancements to biodiversity. Given these findings, I am satisfied that the appeal scheme would be able to avoid a net loss in biodiversity.
18. I note comments from residents with regards to a former appeal decision⁷ which dismissed a scheme of 4 dwellings on part of the appeal site. Whilst I have considered and taken this appeal into account, a substantial time period has passed with the planning policy position and circumstances of planning, particularly around the provision of housing and sustainability having changed considerably. The existing appeal was made when Glewstone was considered to be within Open Countryside, however this position has changed given that the Council in their CS have decided that Glewstone is a sustainable settlement capable of taking proportionate housing growth, despite its lack of services as noted by residents. Given the substantial changes to policy since the time of this appeal, I do not find the situations analogous and therefore only give limited weight to this appeal.

Planning Balance

19. I have applied great weight to conserving and enhancing landscape and scenic beauty of the AONB, which has the highest status of protection in relation to these issues. The site in my opinion would not constitute 'major development' in the AONB, and as set out above, the harm to the landscape and the AONB is limited to predominantly local impact, much of which can be sufficiently mitigated via the employment of adequate ecological and landscape measures as described previously.
20. Both parties are in agreement that the Council cannot demonstrate a 5-year housing land supply, as required by the Framework. However, the tilted balance towards granting permission set out at Paragraph 11 d) of the Framework does not apply in this case. This is because policies in the Framework have specific exclusions from the tilted balance that protect areas of particular importance (in this case the AONB).
21. Despite this, Herefordshire Council maintains a housing strategy which does not have settlement boundaries, however lists the settlements which it considers sustainable for targeted growth proportionate to the settlement. Glewstone is

⁷ Appeal Ref: T/APP/V1830/A/88/87369/P4

listed in Policy RA2 of the CS as a sustainable location for the delivery of housing, and the appeal site would be closely related to and able to be integrated to the form and layout of the village. The provision of 9 dwellings is proportionate to the village and the proposed scheme would be in accordance with Policy RA2 of the CS.

22. The Council's development plan states that the Marstow Parish could provide approximately 24 dwellings over the plan period, 10 of which have been constructed/committed. The subject site provides a range of housing types from bungalows, smaller dwellings and larger family dwellings on a small site which is able to be delivered within the short term. The delivery of different forms of housing which is in accordance with the housing strategy of the development plan is afforded significant weight.
23. Given all of this, I consider that the benefits of the scheme outweigh the identified harm to the landscape and the AONB. I conclude that the scheme would be compliant with the development plan, when considered as a whole. There are consequently no material considerations that warrant a decision other than in accordance with the development plan.

Conclusion and Conditions

24. For these reasons, and having considered all matters raised in evidence and from what I saw during my site visit, I conclude that the appeal should be allowed and planning permission granted, subject to the conditions as detailed in the annex accompanying this decision.
25. I refer to the conditions specified by the Council in their Statement of Case, if the appeal was to be allowed and have considered them in accordance with the Planning Practice Guidance.
26. Suggested conditions 1, 2 and 3 which seek time periods for the decision and the approval of reserved matters are necessary for the avoidance of doubt and in the interests of proper planning. I note that references given to the reserved matters are incorrect as they include layout and access, which are approved as part of this outline application. This has been amended to rectify this error.
27. It is noted that a condition approving plans and documents as part of this outline permission is not included. This has been specified.
28. Suggested Condition 4 repeats Suggested Condition 3 and is therefore not necessary and is deleted.
29. Suggested Conditions 5 and 6 which seek the implementation of drainage and foul water systems are necessary in order to mitigate any potential impacts resulting from the proposed scheme.
30. The implementation of the enhancements to biodiversity as suggested by the Ecology Report are considered necessary in mitigating potential harm caused by the scheme. The suggested condition did not specify a time limit on when the scheme is to be implemented which is necessary so that the works will actually occur. As such it is appropriate to state that the works should be prior to first occupation.
31. The implementation of visibility spays as noted in suggested conditions 8 and 9 is necessary in order to provide suitable access to and from the proposed scheme. It is necessary that both of these conditions are pre-commencement

- conditions given that an acceptable access is important for the construction of the scheme as well as for future occupiers.
32. Suggested condition 10 seeks the approval of details for driveways, parking areas and turning areas which includes drainage and surfacing. This is considered necessary in order to prevent further runoff of water to surrounding properties. However Suggested Conditions 11, 12, and 13 also seek approval of car parking areas, surfacing and drainage. These conditions are not necessary and are adequately dealt with by the reserved matter of 'appearance' and Conditions 2 and 10. These conditions are therefore deleted.
 33. Suggested Condition 14 is necessary in order to provide specific engineering details of roads and highway drains in order to avoid implications towards surrounding public roads and property. It is also necessary that this condition be a pre-commencement condition in order for all of the development phases to operate sufficiently.
 34. Suggested Conditions 15 is unclear as to which road works, does not specify a time period and the second half of the condition relates to 'landscaping' which is a reserved matter. As such, the condition is not required and is deleted.
 35. Suggested Condition 16 relates to highway works taking place within 2 years and that it is necessary for vehicles have a suitable cleaning mechanism to ensure mud is not deposited onto the road. It is necessary that this is a pre-commencement condition given the need for such apparatus before the construction phase commences.
 36. Suggested Conditions 17, 18, 19, 21, 22, 23, 24, 25 all relate to matters to be approved at reserved matters stage (landscaping, appearance) and are therefore not necessary to include within this decision.
 37. Suggested Condition No 20 is considered necessary as it enables suitable measures to be employed in order to prevent damage to trees and hedges. This is necessary to be a pre-commencement condition as measures need to be in place before development commences.
 38. Suggested Conditions 26 and 28 which restrict the total number of dwellings and housing mix is not required given the description of the outline consent is explicit to the number of dwellings which have been granted. The housing mix has also been approved in layout given the approved plans, as such this condition is not necessary.
 39. Suggested Condition 27 does not actually represent a condition and describes needing to understand whether sandstone bedrock is sufficiently far below the drainage field. It is unclear of the reasoning for this condition which is not discussed in the officer's report or appeal documents. The condition is not considered necessary and is therefore deleted.

J Somers

INSPECTOR

Annexe: Schedule of Conditions

1. Application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of the approval of the last reserved matters to be approved, whichever is the later.
3. The development hereby permitted shall be carried out in complete accordance with the following insofar as they relate to layout and access:
 - Flood Risk Assessment and Surface Water Management Plan, By Hydro-Logic Services, Ref L0117 Rep.1 (Rev.2); Dated November 2018
 - Ecology Report, by Ross Wilder, Wilder Ecology, Ref 1AJ/Ph1Eco ass.doc, Dated 20 January 2017
 - Foul Water Design, By Hydro-Logic Services, Ref L0117A Rep1 (Rev2); Dated November 2018
 - Location Plan, Proposed new residential Scheme, Drawing No 17/2267/03, By GH Design, May 2017
 - Plans titled 'Entrance/Turning Head proposed'; 'Crossroads – Existing and Proposed'; 'Proposed Cross Sections Through Site'; 'Location Plan'; 'Proposed Site Plan which indicates storeys of dwellings'.
4. Approval of the details of the scale, appearance, and landscaping (hereinafter called "the reserved matters") shall be obtained from the local planning authority in writing before any development is commenced.
5. All foul water from the dwellings approved under this Decision Notice shall discharge through a Package Treatment Plant with additional phosphate removal system and reed bed before final discharge to local watercourse as indicated in the supplied 'Foul Water Design for Residential Development,' November 2018. The installed system shall be hereafter maintained in compliance with manufacturers specification.
6. Surface water will be managed through an appropriate Sustainable Drainage System (SuDS) and soakaway system within development on land under the applicants control as detailed in 'Foul Water Design for Residential Development,' November 2018. The surface water management shall be maintained hereafter as approved.
7. The ecological protection, mitigation, compensation and working methods scheme PQA Page 2 of 6 including the detailed biodiversity enhancement as recommended in the submitted ecology report by Wilder Ecology dated January 2017 shall be implemented in full prior to first occupation of the development and hereafter maintained.
8. Before any other works hereby approved are commenced, visibility splays shall be provided from a point 0.6 metres above ground level at the centre of the access to the application site and 2.4 metres back from the nearside edge of the adjoining carriageway (measured perpendicularly) for a distance of 60 metres in each direction along the nearside edge of the adjoining carriageway. Nothing shall be planted, erected and/or allowed to grow on the

triangular area of land so formed which would obstruct the visibility described above.

9. Before any other works hereby approved are commenced, the construction of the vehicular access shall be carried out in accordance with a specification to be submitted to and approved in writing by the Local Planning Authority, at a gradient not steeper than 1 in 12.
10. Details of the driveways, vehicular turning area and drainage arrangements shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of any works. The submitted details shall ensure that the driveway and vehicular turning area shall be consolidated and surfaced at a gradient not steeper than 1 in 8. Private drainage arrangements must also be made to prevent run-off from the driveway discharging onto the highway. The approved details shall be implemented prior to the first occupation of the dwellings hereby approved.
11. Development shall not begin in relation to the provision of road and drainage infrastructure until the engineering details and specification of the proposed roads and highway drains 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 completed prior to first use/occupation of the development hereby permitted.
12. Development shall not begin until wheel cleaning apparatus has been provided in accordance with details to be submitted to and approved in writing by the local planning authority, and which shall be operated and maintained during construction of the development hereby approved.
13. No development, including demolition works shall be commenced on site or site huts, machinery or materials brought onto the site, before adequate measures have been taken to prevent damage to those trees/hedgerows that are to be retained. Measures to protect those trees/hedgerows must include:
 - a) Root Protection Areas for each hedgerow/tree/group of trees must be defined in accordance with BS5837:2012 – Trees in Relation to Design, Demolition and Construction. Recommendations, shown on the site layout drawing and approved by the Local Planning Authority.
 - b) Temporary protective fencing, of a type and form agreed in writing with the Local Planning Authority must be erected around each hedgerow, tree or group of trees. The fencing must be at least 1.25 metres high and erected to encompass the whole of the Root Protection Areas for each hedgerow/tree/group of trees.
 - c) No excavations, site works or trenching shall take place, no soil, waste or deleterious materials shall be deposited and no site huts, vehicles, machinery, fuel, construction materials or equipment shall be sited within the Root Protection Areas for any hedgerow/tree/group of trees without the prior written consent of the Local Planning Authority.
 - d) No burning of any materials shall take place within 10 metres of the furthest extent of any hedgerow or the crown spread of any tree/group of trees to be retained.
 - e) There shall be no alteration of soil levels within the Root Protection Areas of any hedgerow/tree/group of trees to be retained.