



Appeal Decision

Site visit made on 17 September 2019

by M Bale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 October 2019

Appeal Ref: APP/W1850/W/19/3225291

Shuttfeld Coppice, Storridge, Malvern WR13 5ES

- 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 Paul Abbots against the decision of Herefordshire Council.
 - The application Ref 180573, dated 10 January 2018, was refused by notice dated 27 February 2019.
 - The development proposed is a storage building for forestry & agricultural machinery, plus hay & timber.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Paul Abbots against Herefordshire Council. This application is the subject of a separate Decision.

Procedural matters

3. The development to which this appeal relates has already been substantially carried out. I have deleted the words 'retrospective application', which appear on the application form, from my above description of development as they do not describe an act of development. From my site inspection, the building at the site appears to accord with that shown on the submitted drawings. I have, therefore, determined the appeal on the basis of the submitted drawings.
4. The submissions in respect of the appellant's costs application include further commentary on an alleged fallback position, which I address later in my decision. However, this appeal decision is made on the basis of evidence submitted with the appeal papers.

Main Issue

5. The main issues are the effect of the proposal on the Malvern Hills Area of Outstanding Natural Beauty (AONB); and the effect on biodiversity.

Reasons

AONB

6. The site is within the Malvern Hills AONB. Policy LD1 of the Herefordshire Local Plan Core Strategy 2011-2031 (CS) aims to conserve the natural, historic and scenic beauty of AONBs. Policy CNDP5 of the Cradley Parish Neighbourhood

Development Plan 2011-2031 (NP) furthers this aim by placing a stricter control over development. In addition to aiming to conserve the natural beauty of the landscape, it only gives support for development that is necessary to promote the economic and social well-being of the designated area and their communities.

7. The Council's officer report indicates that due to a combination of topography, with the building located in a natural depression, and woodland within the area, the site is not visually prominent and does not give rise to a demonstrable detrimental landscape impact.
8. I observed that it is possible to see the building from land to the side of the public bridleway that crosses the site, but that would appear to require deviation from the clear waymarked line towards the edge of a steep drop down towards the site. Even if I am mistaken about the path alignment and, noting that horse riders would be higher and so may obtain views more easily, I find that the building does not intrude into the landscape or detract from its natural beauty when seen from this location. Furthermore, the building does not dominate or draw the eye from any other location in the vicinity, including Batchcombe Lane.
9. With regard to the above, I conclude that the building does not harm the scenic beauty of the wider AONB. That, however, does not address the second limb of NP Policy CNDP5. The policy has a clear aim to afford greater protection to the AONB restricting development to that which is deemed necessary and thereby protecting the landscape generally.
10. The building would service the appellant's agricultural and forestry business being used to store timber harvested from the land and associated machinery. However, there is no substantive evidence before me that the building is necessary to promote the economic and social well-being of the AONB and its communities. There is no compelling reason that this development plan policy should not receive full weight. I, therefore, find that the proposal conflicts with NP Policy CNDP5 and the development plan read as a whole, and would harm the landscape of the AONB by introducing unnecessary development into it.

Biodiversity

11. The site is part of the Mallins Wood Special Wildlife Site (SWS). The protection of wildlife, sites and ecological networks is an important material consideration. LP Policy LD2 and NP Policy CNDP6 seek to protect nature conservation sites and prevent development that would harm the substantive nature conservation value of the site. As the development has already been carried out then any harm to wildlife interests may have already occurred and there is no particular evidence setting out the potential ecological value of this part of the SWS.
12. However, the Council's officer report indicates that the development was not considered to have given rise to harm that would have a detrimental impact on the substantive nature conservation value of the site. There is no particular evidence to lead me away from that conclusion, especially given the absence of any detailed evidence as to what particular harm is alleged to have occurred. Therefore, I find no conflict with LP Policy LD2 or NP Policy CNDP6 in this regard.

Other matters

13. There have previously been notifications¹ to ascertain whether prior approval of the local planning authority (LPA) was required to erect buildings under permitted development (PD) rights. In both cases, the LPA determined that prior approval was not required². The appellant confirms that work commenced on the construction of the proposed L shaped barn but that it was decided to construct a rectangular barn as a result of the cost of cutting into the adjacent slope. I note that the barn that was to be constructed under PD rights would have been larger than that which now exists at the site.
14. However, whilst I have details of that earlier building, I have no details of its intended location. The appellant's submissions in relation to construction decisions, described above, suggest that it would have been in broadly the same location and that the appeal building was built instead. There is no firm evidence, such as a Lawful Development Certificate, before me that this fallback position remains available to the appellant, nor that it would be feasible to construct it, given the stated concerns about the topography.
15. The Council's assessment as to whether prior approval was required in respect of PD rights would not have engaged the same scrutiny of the proposal against development plan policies. Therefore, the simple presence of these notifications in the planning history do not give a clear reason to grant express planning permission. For these reasons, I attribute very limited weight to the stated fallback position.

Conclusion

16. The proposal conflicts with the development plan's aims in respect of the conservation of the landscape of the AONB. The National Planning Policy Framework, at Paragraph 172, indicates that great weight should be given to conserving and enhancing the landscape and scenic beauty of the AONB. There are no material considerations of sufficient weight that indicate a decision otherwise than in accordance with the development plan.
17. For the reasons given above I conclude that the appeal should be dismissed.

M Bale

INSPECTOR

¹ LPA references P131241/S and DMN/111951/S.

² LPA Statement section 2.