
Appeal Decision

Site visit made on 28 July 2020

by J Gibson BUEP MPIA

an Inspector appointed by the Secretary of State

Decision date: 5 October 2020

Appeal Ref: APP/W1850/W/20/3244488

Land adjacent Duke Street, Withington, Hereford HR1 3QD

- 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 Ms Rachel Leake against the decision of Herefordshire Council.
 - The application Ref 190884, dated 11 March 2019, was refused by notice dated 9 October 2019.
 - The development proposed is for the erection of a holiday cottage and construction of vehicular access and drive.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development:
 - on the character and appearance of the surrounding area, with particular regard for the district settlement strategy;
 - on the designated heritage assets, with particular regard for the Withington Conservation Area (CA); and
 - on designated Local Green Space.

Reasons

Character and appearance

3. The appeal site forms part of a large agricultural holding referred to as Stone House Farm, which is located within the open countryside outside the defined settlement boundaries of Withington, as per Policy P2 of the Withington Group Parish Neighbourhood Development Plan (NDP) (made October 2019). It is not disputed between the parties that the proposed holiday cottage constitutes residential development in the open countryside. The wider agricultural holding comprises of open fields and forms a distinct visual break between two separate parts of the defined settlement boundary of Withington, the central village core which comprises the main cluster of development and the ribbon of development lining a section of Duke Street to the north west. The appeal site more specifically is located off the bend of Duke Street, adjoining the defined settlement boundary, and includes the area required for the proposed holiday cottage and access driveway.

4. The appearance, form and functional layout of the proposed holiday cottage would provide the facilities required for day-to-day private domestic existence and are reflective of the distinctive characteristics of a dwellinghouse. Irrespective of the period of time/frequency which the proposal is intended to be occupied for or by a series of different people, it would still reflect the characteristics of a dwellinghouse, and can therefore be appropriately considered as such in the context of this case. The appellant's contention that the proposal could be restricted by an appropriate condition limiting its occupants would not in itself preclude it from assessment against the policies identified by the Council in their decision notice.
5. Policies RA1, RA2 and RA3 of the Herefordshire Local Plan Core Strategy (CS) (adopted October 2015) collectively relate to residential development in rural areas. They offer scope for residential development within rural areas, within or adjacent settlements, and within the countryside. However, this is subject to development complimenting the various local characteristics and setting of specific sites and being of a proportionate scale in this context.
6. The appeal site currently forms a part of the open landscape characteristics which frame the urban extent of the settlement and provides a relieving break between the development along Duke Street and the central core of the village. The proposed holiday cottage attempts to replicate the development pattern along Duke Street but extends beyond the current row of houses, which naturally conclude at the bend of the road to form a clear boundary between the built up part of the settlement and the surrounding countryside. The proposal would consequently appear as an incongruous protrusion into the open fields which define the surrounding landscape as Duke Street curves away towards the village centre. The effect of which would be to erode the otherwise well-defined urban edge and natural form of the settlement and interrupt the spacious views across the appeal site from the street scene.
7. The proposed development would therefore appear alien in this location, both in the context of the natural urban form following this extent of Duke Street and the open landscape characteristics which positively reinforce the defined settlement boundary, and would therefore harm the character and appearance of the surrounding area. Although the appellant has shown hedges and other landscaping along the boundaries of the proposed holiday cottage to reduce its visual prominence within the surrounding landscape, this would not adequately offset the harm identified.
8. The appellant refers to Policies E4 and RA6 of the CS which relate specifically to tourism development and development that would support the rural economy respectively. Both these policies are positively worded to support such proposals but must be taken as a whole with the other relevant policies that make up the development plan. As such, even if the proposed development complied with Policies E4 and RA6 of the CS as suggested this would have a neutral effect which would have no bearing against the policy conflicts and harm identified.
9. The appellant also contests that the proposal would satisfy an exception under Policy RA3 of the CS, as the proposed holiday cottage would accompany the established agricultural operations over the wider site and would support the growth of the business as a rural enterprise. This specific exception however requires compliance with Policy RA4 of the CS, which relates specifically to

worker dwellings that can be demonstrated to have a sustained essential functional need and forms an essential part of the financially sustainable business. The appellant's submitted Business Plan for the proposal does not detail the current position of the farm business and whether the proposal is necessary or essential to support the growth of the rural enterprise. Whilst I understand the broader pressures to the industry described by the appellant, there is no specificity as to the sustainability of the current business on the wider site and how the proposed holiday let is essential to the function of the business or necessary for its future growth. As such, the information is not sufficient to demonstrate that the exception provided by Policy RA3 would be satisfied.

10. Accordingly, the proposed development would harm the character and appearance of the surrounding area and would not be appropriately located in relation to the district settlement strategy. It conflicts with Policy P2 of the NDP, Policies RA1, RA2, RA3, LD1 and SS6 of the CS, and Paragraphs 83, 84, 127 and 170 of the National Planning Policy Framework (the Framework).
11. Collectively the NDP and CS policies seek, amongst other things, to ensure development within the countryside side is appropriately located in relation to the district settlement strategy and has been designed in a way which complements the character and appearance of the surrounding townscape and landscape. The Framework provisions similarly seek to ensure residential development in the countryside locations, including tourism development which may support the rural economy, are appropriately located to support settlements and are of a scale and design which respect the sensitive landscape character and setting of the surrounding area.
12. I note the appellant refers to several planning permissions¹ and an appeal decision² where various scales of holiday accommodation were allowed within countryside locations. Based on the information provided I am not satisfied that these cases are directly comparable to the appeal before me given the sensitive relationship of the appeal site with the Withington CA and designated Local Green Space, and the applicability of the now made NDP. Furthermore, the example cases also differ to the appeal proposal, as well as each other, in that some proposals appeared to be more closely located to the primary use they were associated with, related to existing holiday parks, were generally smaller in built form and appearance, and/or made use of existing buildings on site. Nevertheless, I have determined the appeal before me on its own merits.

Designated heritage assets

13. The appeal site partially falls within and adjoins the Withington CA. The significance of the CA is derived from its spacious and open qualities, as well as its beauty and historic significance defining the settlement of Withington and its setting. It also contains several historic buildings, including two Grade II listed buildings associated with the Stone House Farm complex which has a public right of way connecting it through the CA to Duke Street. Whilst the proposed access driveway is the only portion of the development which would encroach within the CA, the development as a whole would nevertheless have an effect on its significance as a designated heritage asset and its setting.

¹ LPA References: 161257; 172069; 180193; 182017; 183581

² Appeal Reference: APP/W1850/W/17/3188523

14. The proposed holiday cottage would unduly expand the extent of residential development off of Duke Street and partially enclose the northern edge of the CA. This would serve to partially obstruct the clear views from the CA and interrupt the spacious qualities which continue across the CA and into the open paddocks and fields which frame the settlement to the north and form its setting. The proposed access driveway would also serve to visually erode the physical extent of the CA, by encroaching within the CA and constructing a new post and wire fence and field gate to enclose the driveway area.
15. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention be given to the desirability of preserving or enhancing the character or appearance of conservation areas. The proposed access driveway and associated structures enclosing it would directly harm the CA by eroding the visual and physical extent of the CA, which attracts great weight.
16. The significance of the CA is in part attributed to the setting of the open fields to the north. The incongruous location of the proposed holiday cottage within this setting serves to enclose the CA and reduce the levels of openness currently experienced, thus harming the significance of the CA. Paragraph 193 of the Framework attributes great weight to the conservation of designated heritage assets where proposed development may impact their significance.
17. This harm would be less than substantial in light of the overall extent of the CA relative to the scale of the proposed development. Paragraph 196 of the Framework specifies that where less than substantial harm to a designated heritage asset has been identified that this should be weighed against the public benefits of the development.
18. The appellant notes the benefits of the proposal towards generating employment and income for local residents, creation of market appreciation for local products and services, creates opportunities for the mutual share of cultures, and helps slow urban drift by giving a better economic future for families in rural locations. These suggested public benefits would however attract limited weight given the scale of the proposed use and the limited certainty of such benefits based on the lack of detail provided by the appellant in their submitted Business Plan. As such, this would not outweigh the great weight which must be attributed to the identified harm.
19. The appellant refers to a prior approval determination³ for a road/access track running along the northern boundary of the CA in association with the agricultural use of Stone House Farm, confirming this could occur under permitted development rights. It is suggested that the Council would have considered any potential harm to the CA from such a road/access track as part of this application. However, the prior approval process offers a limited scope of assessment. As such, the proposed road/access track would not have been subject to the same breadth of assessment and consideration as is required under a planning application. Notwithstanding this, the access track subject of the prior approval determination stopped short of the access driveway proposed and does not appear to be accompanied by enclosing structures such as fences and gates as is proposed under this appeal. As such, I do not consider the cases and their effects to be comparable in this regard.

³ LPA Reference: 190793

20. The appeal site is also located approximately 100 metres away from two Grade II listed buildings which form the Stone House Farm complex. Sections 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard be given to the desirability of preserving listed buildings, their setting or any features of special architectural or historic interest which they possess. Given the separation distance between the appeal site and the listed buildings and predominantly clear views from Duke Street which would be preserved, I am satisfied that the proposal would not harm the setting of the identified Grade II listed buildings. Similarly, the Council have not identified any harm resulting from the proposal on the setting of these Grade II listed buildings and Historic England did not wish to offer any comments based on the information provided. The proposal would therefore have a neutral effect in this regard and would have no bearing on the harm identified to the CA and its setting.
21. Accordingly, the proposed development would harm the historic environment with particular regard for the Withington CA and would therefore conflict with Policy P7 of the NDP, Policies LD1, LD4 and SS6 of the CS, and Chapter 16 of the Framework. The NDO and CS policies seek, amongst other things, to ensure development is appropriately designed to protect and enhance the historic environment, including heritage assets and their setting, with regard for the character of the surrounding landscape, townscape and local distinctiveness. The Framework provisions similarly seek to sustain and enhance the significance of heritage assets including any contribution made by their setting.

Local Green Space

22. Similar to the above description given for the relationship between the proposed development and the Withington CA, the proposal would also partially encroach within Local Green Space designated under the NDP. The proposed holiday cottage would adjoin the northern border of Local Green Space and the access driveway and associated structures would encroach within it.
23. The designated Local Green Space holds local significance for its ties with the Withington CA, setting for the Grade II listed buildings, access via a public right of way, its role defining the settlement boundaries of Withington, and its generally beautiful and open landscape characteristics. The proposed development would unduly encroach within this space and erode its open characteristics and the historic urban edge of the settlement, subsequently harming its significance to the local community and function.
24. The proposed development would therefore conflict with Policy P5 of the NDP, Policies LD1 and SS6 of the CS and Paragraphs 99, 100 and 101 of the Framework. These NDP and CS policies collectively seek, amongst other things, to protect designated Local Green Space from inappropriate development that would harm its character, appearance, function and overall local significance. The Framework provisions similarly seek to achieve the same.

Other Matters

25. The Council have identified that the appeal site falls within the influence zone of the River Wye Special Area of Conservation (SAC), specifically the River Lugg Catchment Area. However, as I am dismissing the appeal on the above reasoning it is not necessary to address this matter in any further detail.

Planning Balance

26. The Council have identified that they cannot currently demonstrate a deliverable five year housing supply. However, the presumption in favour of sustainable development under Paragraph 11(d) of the Framework would not apply due to the identified harm to the Withington CA as a designated heritage asset and the designated Local Green Space, as specified by Footnote 6 of the Framework. Nevertheless, although the appeal proposal would constitute residential development, it is proposed to be restricted for the accommodation of tourists only and as such would not make a meaningful contribution towards addressing the Council's housing supply shortfall. As such, this matter does not weigh in favour of the proposed development.
27. I note the suggested economic and cultural benefits of the proposal and attribute limited weight, given the scale of the proposal and a lack of certainty based on the level of detail provided in the submitted Business Plan.
28. In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, I have assessed the appeal proposal against the Herefordshire Local Plan CS and the Withington Group Parish NDP which collectively form the relevant development plan. Based on the evidence provided, I identified significant conflict with the settlement strategy for development with regard to the character and appearance of the surrounding area, and harm to the Withington CA and designated Local Green Space. The identified harm and conflict with the development plan attracts great weight and is therefore not outweighed by the other material considerations.

Conclusion

29. For the reasons given above I conclude that the appeal should be dismissed.

J Gibson

INSPECTOR