



Appeal Decision

Site Visit made on 27 April 2021

by R E Jones BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 May 2021

Appeal Ref: APP/W1850/W/20/3262610

The Lodge, Lawless Hill Cottage, Church Road, Sellack, Ross-on-Wye, Herefordshire HR9 6QP

- 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 Keith Meehan against the decision of Herefordshire Council.
 - The application Ref 201992, dated 15 June 2020, was refused by notice dated 9 September 2020.
 - The development proposed is described as: extensions to The Lodge - two storey to provide first floor bedroom and bath above a lounge and single storey glass conservatory.
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Decision

1. The appeal is allowed, and planning permission is granted for extensions to The Lodge: two storey to provide first floor bedroom and bath above a lounge and single storey conservatory at The Lodge, Lawless Hill Cottage, Church Road, Sellack, Ross-on-Wye, Herefordshire HR9 6QP, dated 15 June 2020, subject to the following 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 drawings: 5285:07, 5285:08, 5285:09, 5285:10, 5285:11, 5285:12.

Preliminary Matter

2. Following the refusal of the application and the submission of the appeal, the Council has issued a Lawful Development Certificate (LDC)¹ for a private dwelling house at The Lodge. This is a material consideration and I have therefore taken it into account in determining the appeal.

Main Issue

3. The main issue is whether the proposal would be a suitable location for housing, having regard to local and national planning policies.

Reasons

4. The appeal site comprises a building, known as The Lodge, within the grounds of Lawless Hill Cottage, a large detached dwelling located in the open countryside and part of the dispersed hamlet of Sellack. The building is occupied and in use as habitable accommodation consisting of a lounge,

¹ Certificate of Lawful Use or Development issued on 20th January 2021. Local Planning Authority Ref

kitchen, bedroom and bathroom. The proposal would add two additional bedrooms and a bathroom as well as increasing the size of the living area. The appellant indicates that the building is in use as a dwelling.

5. The Council has not raised any concerns in respect of the appearance of the proposed additions, yet based on the information that accompanied the application, they considered that the increase in the level of accommodation amounted to a new residential dwelling. From my inspection of the submitted drawings and site visit, the level of accommodation would facilitate the building's operation as an independent dwelling.
6. Policy RA2 of the Herefordshire Local Plan Core Strategy 2011 – 2031 (adopted October 2015) (Core Strategy) seeks amongst other things to maintain and strengthen local sustainable communities across Herefordshire. The policy supports housing development in or adjacent to existing defined settlements. The appeal site is located in Sellack, which is not identified as a rural settlement within Policy RA2 where future housing growth is to be located. As such residential development outside of defined settlements is therefore within the countryside.
7. Policy RA3 of the Core Strategy requires that residential development in the countryside must meet one of 7 specific criteria. From the information provided, there is no cogent evidence which indicates the development meets any of these specific criteria. Therefore, the proposal fails to accord with Core Strategy Policies RA2 and RA3.
8. The nearest settlements where there are a range of services that can be accessed, such as Brampton Abbots, Harewood End and Bridstow, are several kilometres away. Given these distances, it is unlikely that residents of the appeal building would choose to walk to these locations. Whilst cycling may be an option, it was apparent from my site visit that the roads around the appeal site are narrow and unlit. This would likely be a barrier to residents wishing to cycle to those settlements, especially at night. Therefore, occupiers would likely be heavily reliant on private cars to access services and facilities. This would be at odds with the National Planning Policy Framework (the Framework) which encourages developments to be in sustainable locations to limit the need to travel and to be close to a choice of transport modes (Paragraph 103).
9. Therefore, the proposal would not be a suitable location for housing, having regard to local and national policies. It would conflict with Policies RA2, RA3, SS1 and MT1 of the Core Strategy. These seek, amongst other things, for development to be located in an appropriate sustainable location and where there is access to services by means other than the private car. The proposal would also fail to accord with the Framework, as detailed above.

Other Matters

10. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that the appeal be determined in accordance with the provisions of the development plan, unless material considerations indicate otherwise.
11. At the time of the LPA's assessment of the application, the applicant confirmed that the appeal building was ancillary to Lawless Hill Cottage. However, as detailed above, an LDC was issued, following the submission of this appeal, confirming the lawful use of the appeal building as a dwelling house. The

evidence submitted with that case indicates that the appeal building has been a dwelling for more than 4 years and has operated as such since 2013. Therefore, despite the appeal building being located in the open countryside away from settlements where housing growth is promoted, it is nevertheless a lawful residential use.

12. Accordingly, the lawful use of the appeal building as a dwelling weighs considerably in favour of the proposed development, and it would be unreasonable to retrospectively apply the Council's housing and rural protection policies given this lawful planning position.
13. Nevertheless, the Council still maintains in its appeal statement that the proposal would be in an unsuitable location for residential development and that this appeal should be dismissed. Yet, if that logic were to be applied to other established and lawful dwellings in the open countryside and in equally remote locations, those other dwellings could also be contrary to development plan and national policies. In my view, it would be unreasonable to take that approach in respect of existing lawful uses and developments.

Planning Balance

14. The location of the proposed development does not comply wholly with the provisions of the development plan, a matter in which I give significant weight. However, following the issuing of the LDC confirming the building's lawful use as a dwelling house, I have given considerable weight to this material consideration, which outweighs the conflict with the development plan in this instance. Therefore, the planning balance is clearly in favour of the grant of planning permission.

Conditions

15. In addition to the standard time limit condition I have considered it necessary to include a schedule of plans that the development relates to, for the avoidance of doubt and in the interests of certainty.

Conclusion

16. For the reasons given above I conclude that the appeal should be allowed.

RE Jones

INSPECTOR