



Appeal Decision

Site Visit made on 18 March 2021

by JP Sargent BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 June 2021

Appeal Ref: APP/W1850/W/20/3253791

Land at Banbh Farm, Breinton Common, Herefordshire HR4 7PP

- 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 Gordon Owen against the decision of Herefordshire Council.
 - The application Ref 193578, dated 14 October 2019, was refused by notice dated 12 March 2020.
 - The development proposed is the erection of an agricultural barn together with appropriate landscaping and planting.
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Decision

1. The appeal is dismissed

Main Issues

2. The main issues with this case are
 - a) its effect on the character and appearance of the countryside,
 - b) whether it would harm the significance of the Eaton Camp Scheduled Monument by reason of its effect on the setting of that designated heritage asset, and
 - c) whether it would have a likely significant effect, when considered alone or in combination with other plans and projects, on the River Wye Special Area of Conservation (the SAC).

Reasons

The effect on the character and appearance of the area

3. The appeal site lies in the open countryside, away from any settlements. It is on a parcel of land roughly 4.85ha in size, that runs down the side of the valley to the bank of the River Wye. This agricultural building would be at the northern end of the site, furthest from the river and immediately adjacent to and parallel with the lane. Its length would be 18m and its height to the ridge would be 6.6m, while it would be finished in dark green sheeting, with timber boarding above.
4. Although it would be agricultural in character, I consider the building would be unduly dominant and overwhelming when seen from the lane because of its isolation, its scale and its closeness to the site boundary. Although there is now a hedge along this boundary, a significant part of that is to be removed and replanted to facilitate sight lines so its impact in the short-term would be limited. Moreover, even noting the site is at a slightly lower level than the lane, I have no reason to consider that in the longer term the replanted hedge would be sufficient to overcome the proposal's harmful visual impact.

5. From the east the development would be largely screened by the adjacent copse, while views from the south and west would be more distant and so, when taken with the landscaping proposed, the building would not intrude so dominantly. I also consider it would be sufficiently far from the nearby veteran tree to avoid causing it unacceptable harm.
6. I appreciate that what is now before me would be substantially smaller than the buildings previously proposed, but that of itself does not mean its visual impact is acceptable. I am also aware of the 2006 permission for an agricultural building on the holding, but that has long-since expired and does not bind me in my consideration of this current case.
7. I therefore conclude the development would detract unacceptably from the character and appearance of the area, in conflict with Policies SS6, SD1, LD1 and RA6 of the *Herefordshire Local Plan Core Strategy 2011-2031* (the Core Strategy) which, while promoting employment-generating uses in rural areas, require them to be commensurate with the location, safeguarding local distinctiveness and the character and appearance of the area. It would also be in conflict with Policies B6, B7, B14 and B15 of the *Breinton Neighbourhood Development Plan* (the Neighbourhood Plan) that seek to preserve local distinctiveness and protect the rural landscape.

The effect on the Eaton Camp Scheduled Monument

8. Eaton Camp is a promontory fort, probably dating from the Iron Age, that stands in a commanding position on the south side of the River Wye at its confluence with Cage Brook, looking out over the valley. Its significance lies, in part in the way its open rural setting and its uninterrupted outward view across the river assists in an appreciation of its historic origins as being a place of defence.
9. This outward view over the valley comprises 3 elements. Firstly, there is the immediate foreground, which is dominated by the river and the water works on the southern bank. Then, on the north bank there is the flat, expansive, and relatively open flood plain, and finally, beyond that, the land rises up the valley's northern side and has a greater tree cover. In my opinion, the elements of this outward view that contribute most to Eaton Camp's setting are the foreground and the floodplain, as they are the closest areas to the historic feature and the areas over which surveillance would have been clearest and most important. In contrast, the distance involved, the sharp change in the character of the land, and the presence of tree cover impeding defensive observation mean the rising slopes on north side of the valley contribute little to the significance of Eaton Camp's setting.
10. With the removal of foreground trees there are clear views from Eaton Camp to the site. However, the proposal would be a distant feature, and would be associated with the rising valley side behind. Its impact would be further reduced by it being of muted colours and concealed to some degree by existing and proposed planting. Moreover, it would fall in an apparent line of sporadic development that follows the lane running along that side of the valley, and comprises a selection of houses to the east (some of which are finished in a noticeable pale render), and goes past the site to the house and animal shelter to the west and on to the hamlet of Breinton Common.
11. When looking from the site, Eaton Camp is a fair distance away amongst the slopes on the south side of the valley, and is separated by the flatter area in the foreground, the river itself and the land on its southern bank. As such, the proposal would not harm how the asset was experienced from there.

12. Heritage assets are an irreplaceable resource that should be conserved in a manner appropriate to their significance, with great weight given to their conservation and a clear and convincing justification required for any harm caused. However, seen from Eaton Camp, and when taking into account the diminished role that the northern valley slope plays in relation to its setting, I find the barn would not appear as an isolated or dominant feature that intruded unacceptably into the outlook from that historic site. Furthermore, looking from the site, the distance and landscape mean the camp's setting would not be adversely affected. Accordingly, I conclude the scheme would not cause harm to the significance of Eaton Camp by reason of adversely affecting its setting, and so would not conflict with Core Strategy Policy LD4 or Policy B15 in the Neighbourhood Plan, which together seek to conserve designated heritage assets and their settings.

Effect on the integrity of the SAC

13. So as to protect and safeguard Special Areas of Conservation, development proposals are considered in the light of the *Conservation of Habitats and Species Regulations 2017* (the Regulations), with the aim of maintaining or restoring, at favourable conservation status, the natural habitats and species. The Regulations require the decision-maker, before granting consent for a plan or project, to carry out an appropriate assessment in circumstances where the plan or project is likely to have a significant effect on a European site, alone or in combination with other plans or projects. If the appropriate assessment shows that the integrity of a European site would be affected then consent for the plan or project can only be granted if there are no alternative solutions, the plan or project must be carried out for imperative reasons of overriding public interest, and compensatory measures will be provided.
14. The SAC covers an extensive part of the River Wye and its tributaries. Its conservation objectives relate to the maintenance or restoration of the wide range of species and their natural habitats for which the SAC has been designated, to ensure the site's integrity is maintained. One concern is that the nutrient regime of the SAC should be protected, and this could be adversely affected by the impact of animal effluent from this building.
15. As submitted the proposal subject of this appeal contained few details as to how such matters are to be addressed. On the application form it was said that the means of foul sewage disposal was unknown and there were no areas for the storage and collection of waste. Moreover, no septic tank was proposed. Given this lack of information about how effluent from the animals was to be dealt with, Natural England advised it could not be certain the scheme would not have a likely significant effect on the integrity of the SAC, and this is a view with which I agree. It could therefore harm the integrity of the SAC.
16. Having found the integrity of the SAC could be harmed, I am aware of no effective mitigation that has been proposed as part of the works subject of this appeal, no alternative solutions offered and no imperative reasons as to why the development should be carried out.
17. The appellant has sought to address this issue by introducing, late on in the appeal process, a septic tank that had not previously been proposed under this scheme, as well as outlining various measures that would be taken to collect and dispose of any effluent. I accept much of this information might have been forthcoming with earlier similar applications on the site, but it had not been submitted within the case before me. The appeal process should not be used to evolve a scheme, and these amendments to this specific proposal, which include what I consider to be substantial additional development, were not matters on which the public had been consulted. Therefore, whilst such amendments may or may not address my concerns on this issue, they cannot be taken into account at this stage. I

appreciate that the likely significant effect of this particular proposal was only raised at the appeal stage after the planning application had been refused and I also note he said what was in the application was based on advice from a Council Officer. Despite this, the impact on the SAC had been examined under earlier submissions, and so it is reasonable to expect it to be addressed on this occasion too.

18. I therefore conclude that, when considered by itself or in combination with other plans and projects, the development could adversely affect the integrity of the SAC, and in the absence of mitigation I cannot conclude the proposal would not have a likely significant effect on the integrity of the SAC. It would therefore be in conflict with the Regulations and the *National Planning Policy Framework*, and also with Policy LD2 in the Core Strategy that states development that would harm sites of European importance will not be permitted.

Other Matters

19. Section 38(6) of the *Planning and Compulsory Purchase Act 2004* says any determination must be made in accordance with the development plan unless material considerations indicate otherwise.
20. In this case it is contended that the building is needed for agricultural reasons. I accept that an agricultural justification can be a basis to allow buildings that would otherwise be harmful in rural areas and the detailed design of the building could be modified to house livestock satisfactorily.
21. The appellant said that, without this building, the land cannot be grazed throughout the year and could have to be sold at a loss. However, I have no basis to consider those circumstances did not apply when he bought the site and so they do not add any appreciable weight in favour of his case.
22. It was also contended that the building would allow the growth of the business that, in turn, would lead to economic benefits. In his most recent submissions though he has said the building would be used to '*keep a few ewes and a few steers (no more than 6 steers)*'. I note the appellant's experience as a cattle farmer but, given the scale of the operation, I am not satisfied that the agricultural need for the building and the benefits it would bring to this enterprise would justify the harm identified.

Conclusions

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

JP Sargent

INSPECTOR