



Appeal Decision

Site Visit made on 18 May 2021

by Tamsin Law BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 March 2022

Appeal Ref: APP/W1850/W/21/3270818

Monksbury Court Barns, Monkhide Village Road, Monkhide, HR8 2TU

- 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 L.T.F Properties Ltd against the decision of Herefordshire Council.
 - The application Ref 192765, dated 31 July 2019, was refused by notice dated 12 November 2020.
 - The development proposed is described as the proposed erection of seven dwellings with garages and associated development on land to the north of Monksbury Court barns, Monkhide.
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Decision

1. The appeal is allowed and planning permission is granted for the proposed erection of seven dwellings with garages and associated development on land to the north of Monksbury Court Barns, Monkhide Village Road, Monkhide, HR8 2TU in accordance with the terms of the application, Ref 192765, dated 31 July 2019, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. On 20 July 2021, the Government published a revised version of the National Planning Policy Framework (the Framework). I have asked for and received further comments from the main parties, I have taken these into account in coming to my decision.
3. The Council submitted an assessment which details that it can demonstrate a 5 year housing land supply, which it could not during its determination of the application. I have asked for and received comments from the appellant on this matter and have taken these into account in coming to my decision.

Main Issues

4. The main issue are;
 - The effect of the proposed development on the character and appearance of the area; and
 - The effect of the proposed development on surface water drainage and flood risk.

Reasons

Character and Appearance

5. The appeal site lies to the north-east of Hereford within the settlement of Monkhide as defined by the Herefordshire Local Plan Core Strategy (2015) (CS) and the Yarkhill Neighbourhood Development Plan (2018) (NDP). The site is accessed via a lane that has a rural character with a narrow carriageway, hedge and tree lined edge to one side and agricultural land to the other. The lane connects three distinct small groups of dwellings and farms, albeit the lane is not a through road. The appeal site lies adjacent to one of these groups which comprises a farm and associated buildings and barn conversion complex. Whilst the nearby buildings vary in their design and nature, they have a consistent traditional agricultural style and are finished with red brick, timber boarding and render.
6. The proposed development would introduce seven dwellings to the north of an existing barn and the barn conversion complex. The proposed dwellings would be laid out around a central area of open space and vehicular turning area, emulating the adjacent barn conversion complex. Whilst the dwellings would be modern in appearance, the form, density and arrangement of buildings would be analogous of farmhouse and barn style buildings reflective of the site's rural location, and consistent with other examples of rural buildings in the area, including the neighbouring barn conversion complex. Consequently, although the proposal would change the site to a different and residential character, the design of the buildings would ensure that it did not present itself as a nondescript suburban addition to the landscape.
7. It is not disputed that the proposal would be visible from points in the landscape, from both roads and rights of way. However, given the established boundary vegetation, the site is well contained. The existing hedgerow and trees that bound the site to the north, east and west would be reinforced with additional planting and would soften the proposal from most vantage points. This, combined with its grouping with existing buildings, its careful design and use of materials would ensure that the proposed development harmonises with its surroundings and would not appear as an incongruous addition. Whilst the proposed development would represent a change to the character and appearance of the area, it would not represent a harmful change.
8. The proposed development would therefore comply with Policies SS6, LD1, LD4 and SD1 of the CS, and Policies Y2 and Y11 of the NDP which seek, amongst other things, to ensure that development contributes positively to an area's distinctiveness and sensitively responds to the setting of the site and reflects the rural character of neighbouring buildings. The proposal also complies with paragraphs 130 and 174 of the National Planning Policy Framework (the Framework) which seek good design sympathetic to local character and recognises the intrinsic character and beauty of the countryside.

Drainage and Flood Risk

9. The appeal site is located within Flood Zone 1, part of the access road which leads to the site is located within Flood Zone 2. Concerns are raised regarding the potential for the proposal to increase surface water and associated flooding to neighbouring properties. It is noted that submissions from interested parties' detail that nearby properties suffer from flooding, although it is acknowledged

within the Committee Report that the flooding that was experienced was fluvial flooding from a larger catchment.

10. Although full technical details have not been provided to show how surface drainage would be dealt with. A surface water drainage strategy, which included infiltration testing, has been submitted which details that if soakaways are not suitable then an attenuation pond for the discharge of water to a nearby watercourse would be provided. Details of this pond has been submitted and even if not required for the purposes of drainage would be provided for biodiversity purposes.
11. The submission details that with a suitable cellular or soakaway feature that a drainage system at the site could accommodate a 1 in 100 year + 40% climate change event. The surface water run-off for the site would, at a minimum, match the existing pre-developed greenfield run-off rate. With the provision of additional storage capacity and permeable surfaces the proposal could provide a betterment over the pre-development run-off rates.
12. I am not aware of any technical reasons that would prevent the installation of a suitable drainage scheme. The Council has suggested a planning condition requiring further details to be provided and for a drainage scheme to be implemented prior to proposed dwellings being brought into use.
13. I therefore conclude on this issue that, subject to the suggested planning conditions, adequate arrangements would be made for drainage. In my view, this would adequately address the provisions of Policy SD3 of the CS and Policy Y9 of the NDP which seek, amongst other things, to ensure that development provides effective surface water measures to protect existing and future residents and takes account of the need to adapt to climate change. The proposal also complies with paragraph 167 of the Framework which seeks to ensure that flood risk is not increased elsewhere.

Other Matters

14. The site is located within the River Wye Special Area of Conservation's (SAC) zone of influence, specifically relating to its drainage catchment. Given the lack of public sewerage system serving the site, the unmitigated discharge of private sewerage and surface water within the SAC's drainage catchment could provide a pathway to generate likely significant effects on water quality.
15. The Council, in their role as competent authority when dealing with the original application at the site, pursuant to the Habitats Regulations, carried out an Appropriate Assessment (AA) and consulted Natural England in their role as the appropriate nature conservation body. The outcome of the Council's AA confirmed that the discharge of private sewerage could be adequately mitigated by way of planning condition, which would require treatment before being allowed to soakaway, along with surface water, into land under the appellant's control and eventually into the wider catchment.
16. Natural England raised no objection to this approach, in terms of mitigating significant adverse effects on the integrity of the SAC. I am satisfied that the Council's appropriate assessment is rigorous, robust, and proportionate to the proposal's effects. However, I am aware that additional information, relating to phosphate levels, has emerged in the intervening period that could make it out

- of date. As such, as the competent authority, it is necessary for me to conduct an AA in relation to the effect of the development on the integrity of the SAC.
17. With the above in mind, without a suitable four drainage strategy in place and in isolation, the proposal would have the potential to adversely affect the integrity of the SAC.
 18. The Habitats Regulations require that permission may only be granted after having ascertained that it will not affect the integrity of the European site. I may give consideration to any conditions or other restrictions which could secure mitigation and so provide certainty that the proposal would not adversely affect the integrity of the site. Natural England and the Council have indicated that there is an agreed strategic solution to mitigate the effects of discharges to ground.
 19. The Council, in consultation with Natural England, have updated guidance on discharges to ground and advise that provided all criterion are met that a proposal would present a low risk that phosphorous would have a significant effect on the SAC. It is noted that most of the criterion were in place when the Council undertook their AA and the submission details that the foul drainage scheme would comply with all seven criterion. The proposal would be a sufficient distance from the SAC, any surface water features and other discharges to ground. It would not be on a slope greater than 15% or within Flood Zone 2 or 3 and would be in an area where the high water table groundwater depth is at least 2 metres below the surface.
 20. I am satisfied that the proposal would not have significant adverse effects on the SAC, because the location of the discharge and its compliance with the above criterion would be sufficiently controlled by planning condition. There is no evidence that a planning obligation is necessary in this case, on the basis that the land is within the appellant's control and therefore a planning condition represents an appropriate mechanism for securing mitigation measures.
 21. For example, the mitigation measures can be implemented by the appellant, whilst future maintenance and operation can be enforced by the Council without legal impediment that might otherwise require a planning obligation. This is consistent with Paragraph 55 of the Framework, which confirms that planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.
 22. Overall, whilst the proposed development has the potential to harm the SAC, the measures controlled by planning conditions would ensure the proposal did not have significant adverse effects on the integrity of the SAC.
 23. I note that in addition to concerns relating to the main issues and the SAC that interested parties have raised concern regarding the location of the proposal with regards to services and highway safety. It is noted that the appeal site, apart from an area for the attenuation pond, is located within the development boundary and settlement of Monkhide and as such the principle of development is considered acceptable. I noted during my site visit that, whilst Monkhide is limited in its service provision, the site is within a mile of Newtown which has a convenience store and petrol station. Additionally, there are bus stops that would provide access to the wider area.

24. With regards to highway safety, I note the comments from the Highways Authority, who offer no objection to the proposal, that the access road should be made up to an adoptable standard. During my site visit I noted that the access on to the adjoining A417 had good visibility and although the road to the development was single track, there was good visibility to allow for vehicles to stop and pass each other safely.

Conditions

25. The Council has provided a list of conditions, which I have assessed in regard to the advice provided in the Planning Practice Guidance (PPG). I consider that conditions regarding surface and foul water drainage, site levels and a construction environmental management plan are necessary in order to ensure that the integrity of the SAC is safeguarded during construction and lifetime of the development. Conditions regarding improving the access track, maintaining visibility and access and the provision of cycle storage are necessary in order to ensure a safe access and to promote the use of alternative methods of travelling. Landscaping and biodiversity conditions are necessary in order to ensure the proposed landscaping and biodiversity mitigation is completed and maintained. I have altered the wording of some conditions in order to ensure they comply with the PPG.
26. With regards to the Council's request for a condition requiring further details with regards to the external materials, I note that a schedule of material is included on the elevational drawings of each proposed dwelling. As such, I see no reason that this condition should be included. With regards to the Council's request that a condition be imposed requiring the garages to only be used as garaging space or for purposes incidental to the dwelling, I do not consider such a condition necessary as any other use outside that related to the dwelling would require the benefit of a separate planning permission. I see no reason that this condition should be included.
27. I note the appellant has viewed the conditions and agreed to their use.

Conclusion

28. The appeal scheme would accord with the development plan and there are no material considerations worthy of sufficient weight that would indicate a decision otherwise. The appeal should therefore, subject to the conditions in the schedule below, be allowed.

Tamsin Law

INSPECTOR

Schedule of 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 plans: HA33962 P01 B Location Plan, HA33962 P02 B Location Plan, HA33962 P04 H Proposed Site Plan, HA33962 P05 C Proposed Visual Images, HA33962 P06 D Proposed Contextual Site Layout, HA33962 P07 C Contextual Materials Study, HA33962 P08 C Contextual Materials Study 2, HA33962 P09 C Contextual Materials Study 3, HA33962 P11 C As Proposed Ground Floor Plan Plot 1, HA33962 P12 C As Proposed First Floor Plan Plot1, HA33962 P13 C Proposed Elevations Plot 1, HA33962 P15 C Proposed Ground Floor Plan Plots 3, 4 and 5, HA33962 P16 C Proposed First Floor Plans Plots 3, 4 and 5, HA33962 P17 C Proposed Elevations Plots 3, 4 and 5, HA33962 P18 C Proposed Ground Floor Plan Plot 7, HA33962 P19 C Proposed First Floor Plan Plot 7, HA33962 P20 C Proposed Elevations Plot 7, HA33962 P21 C Proposed Ground Floor Plan Plot 1, HA33962 P22 C Proposed First Floor Plan Plot 1, HA33962 P23 C Proposed Elevations Plot 1, HA33962 P24 C Proposed Ground Floor Plan Plot 6, HA33962 P26 C Proposed Elevations Plot 6, HA33962 P31 C Proposed Detached Double Garage, Design and Access Statement (August 2019), H+H Drainage report (26 September 2020), Ecological Appraisal (July 2019), Flood Risk Assessment and Surface Water Management Plan (October 2019), Foul Drainage Strategy (14 April 2020), Percolation Tests and Infiltration Tests (26 September 2020), Surface Water Drainage Calculations (15 Jun 2020), Transport Statement (29 July 2019), Response to Queries to the Proposed Drainage Strategy (28 October 2020)
- 3) No development shall take place until visibility splays, and any associated set back splays at 45 degree angles have been 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 154 metres northbound and 160 metres southbound along the nearside edge of the adjoining carriageway. Development shall be carried out in accordance with the approved details and 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.
- 4) No development shall take place until details of improvements to the access from the A417 to the development hereby permitted have been submitted to and approved in writing by the local planning authority. The approved details shall be completed prior to first occupation of any dwelling approved under this permission and thereafter maintained to an acceptable standard.
- 5) No development shall take place until details of a surface water drainage strategy have been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented in accordance with the approved details before the first occupation of the development hereby permitted and maintained thereafter.

- 6) No development shall take place until details of the proposed foul drainage strategy have been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented in accordance with the approved details before the first occupation of any of the dwellings hereby permitted and maintained thereafter.
- 7) No development shall take place until a detailed plan, showing the levels of the existing site, the proposed slab levels of the dwellings hereby permitted and a datum point outside of the site, have been submitted and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 8) Before any work; including site clearance or demolition begin or equipment and materials are moved on to site, a Construction Environmental Management Plan (CEMP) including a full Ecological Working Method Statement and a specified 'responsible person', shall be supplied to the local planning authority for written approval. The approved CEMP shall be implemented and remain in place until all work is complete on site and all equipment and spare materials have finally been removed.
- 9) With the exception of site clearance and groundworks, no further development shall take place until a landscape scheme shall be submitted and approved in writing by the local planning authority. The scheme shall include a scaled plan identifying:
1. Trees and hedgerow to be retained, setting out measure for their protection during construction, including the location of temporary fencing, in accordance with BS5837:2012.
2. Trees and hedgerow to be removed.
3. A plan showing existing and proposed finished levels or contours, particularly around the balancing / wildlife pond, including suitable gentle gradients into the pond.
4. All proposed planting and seeding, accompanied by a written specification setting out: species, size, quantity, density and cultivation details. This should include native trees.
5. All proposed hardstanding and boundary treatments.
6. Detailed construction drawings of the southern boundary retaining wall in conjunction with proposed tree pits and any other planting.
- 10) Prior to the first occupation of the first dwelling hereby permitted, a schedule of landscape maintenance for a period of 10 years shall be submitted to and approved in writing by the local planning authority. This shall include and cover all communal areas, such as the courtyard, boundary planting and wildflower meadow / balancing pond. Maintenance shall be carried out in accordance with this approved schedule.
- 11) 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. The approved details shall be implemented prior to first occupation of any dwelling hereby permitted.
- 12) No development shall take place above damp proof course levels, until a scheme and annotated location plan for proposed biodiversity net gain enhancement features including as a minimum significant provision for

Bat Roosting, Bird Nesting, pollinating insect 'hotels' and Hedgehog homes has been submitted to and approved in writing by the local authority. Development shall be carried out in accordance with the approved scheme which should then be maintained thereafter. No external lighting should illuminate habitats on or off the site, boundary features or biodiversity net gain features.

- 13) Prior to the first occupation of the first dwelling hereby permitted, details of a scheme for the provision of covered and secure cycle parking facilities and electric vehicle charging points, within the curtilage of each dwelling, shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and made available for use prior to the first occupation of each dwelling hereby permitted and maintained thereafter.
- 14) Prior to first occupation of any dwelling hereby permitted, a scheme for the provision of a surface water attenuation system, shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented prior to the occupation of any dwelling and maintained thereafter.
- 15) Prior to the first occupation of any dwelling hereby permitted a scheme for the provision of storage, prior to disposal, of refuse for each dwelling hereby permitted shall be submitted to and be approved in writing by the local planning authority. The approved scheme shall be implemented prior to the first occupation of the any dwelling hereby permitted and maintained thereafter.
- 16) Prior to first occupation of any dwelling hereby permitted details of how all the shared aspects of the foul water drainage scheme will be managed for the lifetime of the development hereby permitted shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and maintained thereafter.
- 17) Prior to the first occupation of any dwelling hereby permitted, details of a potable water scheme to demonstrate that the existing water supply network can suitably accommodate the proposed development site shall be submitted to and approved in writing by the local planning authority. The scheme shall include a water storage facility in each property, details of how and when potable water will be drawn from the public watermain and demonstrate that sufficient capacity can be provided for use throughout the day without the need to draw again. Development shall be carried out in accordance with the approved details prior to the first occupation of any dwelling hereby permitted and maintained thereafter.
- 18) All foul water shall discharge through connection to new shared private foul water treatment system as detailed in the Foul Water Drainage Strategy and supporting plan by Berrys (dated 14th April 2020) and all surface water shall be managed through plot specific soakaway-infiltration systems, unless otherwise agreed in writing by the Local Planning Authority.

- 19) Details of any external lighting shall be first submitted to and approved in writing by the local planning authority. Any development in respect thereof shall demonstrate compliance with the latest best practice relating to lighting and protected species and wildlife as available from the Institution of Lighting Professionals and the Bat Conservation Trust and be carried out in accordance with the approved details.
- 20) During the construction phase no machinery shall be operated, no process shall be carried out and no deliveries taken at or despatched from the site outside the following Page 20 times: Monday-Friday 7.00 am-6.00 pm, Saturday 8.00 am-1.00 pm nor at any time on Sundays, Bank or Public Holidays.
- 21) All planting, seeding or turf laying in the approved landscaping scheme shall be carried out in the first planting season following the occupation of the building or the completion of the development, whichever is the sooner. Any trees or plants which die, are removed or become severely damaged or diseased within 10 years of planting will be replaced in accordance with the approved plans.