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# Appeal Decision

Site visit made on 6 December 2022

**by K Stephens BSc (Hons) MTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 27<sup>th</sup> January 2023.**

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**Appeal Ref: APP/W1850/W/22/3293876**

**The Mill Farm, Little Cowarne, Bromyard, Herefordshire HR7 4RG**

- 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 Mrs Sally Godsall against the decision of Herefordshire Council.
  - The application Ref 201390, dated 1 May 2020, was refused by notice dated 15 December 2021.
  - The development proposed is described as 'Provision of a single log cabin for holiday accommodation and associated parking for 2 cars.'
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## Decision

1. The appeal is dismissed.

## Main Issues

2. The main issues in this appeal are:
  - Whether the appeal site would be a suitable location for tourist holiday accommodation with regard to local and national policies;
  - The effect of the proposed development on the character and appearance of the area;
  - The effect of the proposed development on the setting of The Folly, a Grade II listed building, and
  - The effect of the development on the River Lugg/River Wye Special Area of Conservation.

## Reasons

*Whether a suitable tourist location*

3. The appeal site is located about 4 miles southwest of Bromyard, 11 miles northeast of Hereford and about 1 mile from the junction of Woodened Lane with the A465 and the cluster of development at Stoke Cross/Stoke Lacey. Whilst the address refers to Little Cowarne, this is a small hamlet on the other side of the valley about  $\frac{3}{4}$  mile to the east as the crow flies. It is not accessible by vehicles from the site as there is no public route across the fields and through Mill Farm. For practical purposes, the nearest settlement is at the junction with the A465.
4. Woodend Lane leads to the appeal site and two properties beyond it where the lane terminates. I saw on my visit that it is a narrow single-width road with little or no grass verge, pavement, street lighting, or formal passing places and

was poorly surfaced in places. There is sporadic residential development along Woodend Lane.

5. The site comprises a rectangular parcel of land that forms part of a much larger agricultural field and network of fields. There is a small, single storey corrugated metal building on the site. This sits adjacent to Woodend Lane on the corner with a track into the field and close to the access track to an adjacent property, The Park.
6. The proposal is for a single storey, timber-clad, 3-bedroom 'log cabin' to provide tourist holiday accommodation. Outside there would be a gravel drive and parking area for 2 vehicles. It is a scaled-back version of a previous application for two log cabins that was refused by the Council in May 2019.
7. I accept the proposal would have the characteristics of a dwellinghouse that would pass the *Gravesham*<sup>1</sup> test of having the facilities required to function for day-to-day living: it would have bedrooms for sleeping, an open-plan kitchen/living space for cooking and eating, and a bathroom and ensuite for washing. The courts have found a building did not lose its dwellinghouse characteristics if it was occupied for only part of the year, or at infrequent intervals, or by a series of different persons. Self-catering accommodation for visiting tourists would need to have similar dwellinghouse facilities to function for day-to-day living, although provision can be more relaxed as occupiers are not permanently living in the premises.
8. Herefordshire Local Plan Core Strategy (the CS) Policy RA2 identifies Stoke Cross/Stoke Lacey as a settlement suitable to be a 'main focus for proportional housing development' within or adjacent the settlement. I saw the appeal site clearly lay a considerable distance outside the main cluster of built-up form of Stoke Cross, and also Stoke Lacey, and sits surrounded by fields such that it is clearly in the countryside. Whilst only at an early stage of preparation and of limited weight, the site lies well beyond the proposed settlement boundaries of both Stoke Lacey and Stoke Cross, as shown in the Stoke Lacey Parish Neighbourhood Development Plan.
9. In the countryside, CS Policy RA3 will permit new residential development where it meets a number of listed criteria. The proposal would not meet any of these, and would therefore be contrary to the Council's residential housing policies.
10. However CS Policy RA6 seeks to support the rural economy by helping it diversify, and recognises that the county's varied tourism facilities can enable existing farms and rural businesses to diversify, as well as accommodating the needs of visitors. The Council identifies sustainable tourism proposals as one of a range of economic activities to do this, provided it is of a scale commensurate with its location and setting; does not cause unacceptable adverse impact on the amenity of nearby residents by reason of design and mass, noise, dust, lighting and smell; does not generate traffic movements that cannot be safely accommodated within the local road network, and does not undermine the achievement of water quality targets.
11. The provision of a single 3-bedroom unit of holiday accommodation on a small parcel of land would be small-scale. The Parish Council has no objection to the

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<sup>1</sup> *Gravesham BC v SSE and O'Brien* [1983] JPL 306

principle but has raised concerns, as have a number of residents, about highway safety arising from additional traffic using Woodend Lane. However, the Highway Authority raises no technical objection to the proposal subject to a number of conditions to include provision for cycle storage and an on-site turning area to reduce reversing, noting that the adopted highway stops short of the access to The Park. The Council has not raised concerns that the proposal would adversely affect residential amenity of neighbouring properties and, from what I saw of the site's location and distances to nearest properties, I have no reason to take a different view.

12. CS Policy E4 relates specifically to tourism, stating that Herefordshire will be promoted as a destination for quality leisure visits and sustainable tourism using the county's unique environment and, amongst other things, recognising the intrinsic character and beauty of the countryside. It sets out a number of measures to support the tourist industry, including helping diversify tourist provision, extend the tourist season and increase the number of visitors staying overnight. The supporting text states that many visitors come to the county to enjoy the beautiful countryside and there is likely to be demand for new facilities and accommodations associated with this. It also accepts that some small-scale tourism associated development may be appropriate in rural areas, subject to various criteria, including there are no detrimental impacts on the character and quality of the environment.
13. These policies are broadly compliant with the National Planning Policy Framework (the 'Framework'), which is a material consideration, and which supports a prosperous rural economy. It states that decisions should enable the diversification of agricultural businesses and sustainable rural tourism that respects the character of the countryside (paragraph 84).
14. The appellant owns and farms The Mill Farm, an approximately 35-acre holding, and has done so for over 40 years, and also farms other land parcels. The land is only suited to sheep and beef production and the appellant's sons operate an agricultural contracting business. Submitted evidence<sup>2</sup> confirms that the appellant is a regular vendor and purchaser at Hereford Market, and is not a 'hobby' farmer. Whilst the holding is relatively small it is nonetheless a commercial concern. With increasing costs, the challenges of food production with climate change, and changes to agricultural payment schemes, the proposal would help maintain the appellant's income stream.
15. The appellant hopes the 3-bedroom unit will attract guests to stay for breaks of more than 2-3 days and will also be attractive to families with children, unlike some other smaller accommodation in the area targeted at couples in pods, yurts and small cabins. Submitted evidence from a number of other tourist accommodation providers and some of the local pubs in the area would seem to suggest that there is scope and need for more tourist accommodation in the area with the knock-on benefits this gives to local businesses and the wider rural economy.
16. Whilst there were properties either side of the appeal site, and others along Woodend Lane, and the Mill Farm was clearly visible in the bottom of the valley, the location had a remote and tranquil character, with a vista of the surrounding undulating countryside. It was close to a network of footpaths,

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<sup>2</sup> Richard Hyde – Director of Hereford Market Auctioneers Ltd

with several passing the site offering links to national footpaths/trails. Remoteness can be the attraction for a quiet rural retreat and for those who like walking or cycling for example. Indeed to meet such demand the Framework recognises that some tourist visitor accommodation will need to be located in more remote countryside locations, beyond existing settlements or in locations not well served by public transport (paragraph 85), such as the appeal site.

17. Apart from the bus stop and the Plough Inn on the A465 over a mile away, the site is not well located to services and facilities or public transport, and it is likely that any visitors, if not walking or cycling from the log cabin, would be reliant on the car to get to and from the property. I am informed that generally rural bus services across the county are not extensive and therefore it is not always possible to be located on or close to a bus route, although seasoned walkers may not be put off the mile's walk to the bus stop. Furthermore, tourists visiting an area on holiday or a short break would not necessarily need the same range of services and facilities as permanent residents.
18. The proposed development creates some tension between the Council's policies for new housing in settlements and the countryside on the one hand, with the provision of visitor accommodation for tourists on the other. I accept that new residential development in the countryside is to be controlled, and the proposal would be contrary to the Council's housing strategy. Accessibility to local services and facilities is not always possible, but some quiet tourist activities benefit from remoter locations so that the intrinsic character and beauty of the countryside can be enjoyed better. The proposal is for tourist accommodation, which the development plan seeks to promote, as well as support the rural economy and encourage rural diversification. The proposal would be small-scale and could be conditioned that it is for limited occupation and not for a permanent residence.
19. Despite some conflict with housing policies CS RA1, RA2 and RA3, the proposal would accord with CS Policy E4 and in part with CS Policy RA6 and would, in principle be in an appropriate location. I shall address issues of water quality later.

#### *Character and appearance*

20. I saw that the site, and the larger field it forms part of, slope down to Mill Farm and the River Lodon in the bottom of the valley. The site occupies an elevated position with fine and expansive views across the surrounding countryside and its undulating landscape where hedged field boundaries and wooded valleys are prominent. These are characteristics of the 'Timber Plateau Farmland' landscape character type, identified in the Herefordshire Landscape Character Assessment, within which the site sits. The tranquillity of the area was a noticeable feature.
21. From the nearby public footpath, that runs down the hill through the adjacent woodland opposite The Folly, there were limited views of the existing building through the gappy hedgerow. However, the proposed log cabin would be much larger and would be more visible. There would be more pronounced views of the site and the proposed log cabin from the footpath in the valley bottom and crossing the River Lodon.

22. At present the rusty metal building, with its agricultural appearance and diminutive stature, is not incongruous in the landscape. However, the proposed log cabin would be much larger and its design, although timber, would be more suited to a purpose-built holiday park rather than being a unique design response to the site and this remote part of Herefordshire's countryside. The gravelled drive, parked cars and associated paraphernalia around the cabin would also be visible and give the site an unduly domestic character and appearance at odds with its simple rural setting on this small plot. I note that during the determination of the application the plans were amended to site the log cabin parallel to the roadside hedge. Whilst this would help provide a vegetated backdrop and screen it from the road, this would do little to screen the site in the wider landscape.
23. The siting and design of the log cabin would result in an unduly prominent, incongruous and inappropriate addition to the landscape, that would harm its character and appearance. Accordingly, it would be contrary to CS Policies SS1, SS6 and LD1. Collectively these seek, amongst other things, to ensure development does not adversely affect local landscapes and conserves or enhances the environmental and sustainable assets that contribute to the county's distinctiveness.

#### *Setting of listed building*

24. The Folly is a Grade II listed building, a designated heritage asset, to which I must have special regard to the desirability of preserving its setting<sup>3</sup>. The official listing describes it as an early 17<sup>th</sup> Century timber-framed cottage, to which the Council's Conservation Officer adds that it is a good example of a timber-framed cottage in a rural setting. Being old and an example of local vernacular architecture, it has historical and architectural significance.
25. The property sits end on, and close to, Woodend Lane, presenting its striking tall gable end to it. It is located within a rural landscape setting along a narrow lane, which contributes to its significance as a rural cottage.
26. However, I saw that the extent of the rural setting was localised and primarily confined to the land to the front and rear of the property (land which is parallel to Woodend Lane) and behind it. Due to the roadside hedgerow, field boundaries and a parcel of woodland on the opposite side of the road, the extent of the rural setting is curtailed.
27. The appeal site is on the other side of the lane and some distance from The Folly. There was a lack of intervisibility between the appeal site and listed building due to the alignment of the lane, the intervening woodland and field boundary hedgerows, even during my visit in winter.
28. I therefore find the proposal would have no effect on the setting of the listed building. Hence the setting of the listed building would be preserved. Accordingly, there would be no conflict with CS Policy LD4, which seeks, amongst other things, to ensure that development protects heritage assets and their settings.

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<sup>3</sup> under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990

### *Water quality and the River Lugg/River Wye*

29. The site falls within the catchment of the River Lugg, which is part of the River Wye Special Area of Conservation (SAC), a European designated nature conservation site afforded protection. The Rivers Wye and Lugg are also Sites of Special Scientific Interest, a national designation. The River Lugg currently suffers from pollution as phosphate levels exceed conservation objectives and is hence failing its water quality targets. For new development proposals, there needs to be certainty that they will not adversely affect the SAC and add to phosphate levels.
30. Major sources of phosphate is treated waste water from foul drainage systems. The proposal would involve installation of a new private treatment plant with outfall discharging to soakaway drainage to fields in the appellant's control.
31. CS Policy SD4 states that development and management of waste water should not undermine the achievement of water quality targets for rivers. Where connection to mains waste water infrastructure network is not possible, non-mains alternative proposals should be accompanied by information to demonstrate there will be no likely significant effect on the water quality, in particular designated national and European sites, especially the River Wye SAC, or adversely affect the integrity of the SAC. Only development which can be shown to have no adverse effect on the integrity of designated European sites will be permitted. The Framework advises that SACs should be given the same protection as habitat sites which states that if there is significant harm and that it is not mitigated against, then planning permission should be refused.
32. CS Policy LD2 seeks to retain and protect nature conservation sites. Amongst other things, development liable to harm the nature conservation value of the site will only be permitted if the importance of the development outweighs the local value of the site.
33. The Council's Ecologist removed their objection, satisfied with details the appellant submitted later. However, the Council's position statement (Spring 2021) now includes criteria that the ground for the discharge of soakaways is not within 200 metres of any private ground discharges to ensure there is no significant in-combination effect. The Council considers there are at least two dwellings within a 200 metres and hence this criterion has not been met.
34. I am led to understand that the appellant was not made aware of this additional criterion when the application was determined. That may be so, but the appellant has not submitted any additional substantial evidence to support the appeal and demonstrate that this outstanding matter can be overcome and that harm to the SAC can be avoided. Instead the appellant suggests that this could be made a condition, should planning permission be granted. However, imposing a condition would not provide sufficient details or certainty 'up front' that the proposal would not adversely impact on the water quality of the SAC.
35. In the absence of further details I am unable to conclude with any certainty that the proposed waste water treatment plant would not result in additional phosphates being released into the river catchment and would not result in harm to the SAC or its integrity. The proposed small-scale facility to provide a single unit of tourist accommodation is not of such importance as to outweigh the harm to a European designated nature conservation site.

36. Accordingly the proposal would be contrary to CS Policies LD2 and SD4 whose aims have already been outlined above. It would also be contrary to the Framework in relating to conserving and enhancing the natural environment and priority habitats.
37. Herefordshire Council was the competent authority responsible for undertaking the Habitats Regulations Assessment (HRA) and must consult Natural England as a statutory consultee. In determining this appeal it would fall to me, as the competent authority in this case, to undertake the HRA. However, as I am dismissing the appeal for other substantive reasons, I do not need to consider or pursue this matter further.

### **Other Matters**

38. I acknowledge the appellant's concerns with the Council's handling of the application and the length of time to determine it and that they have lodged a complaint to Herefordshire Council. That is a matter between the appellant and the Council. In reaching my decision I have been concerned only with the planning merits of the case.

### **Planning Balance and Conclusion**

39. The proposal would be contrary to the Council's housing strategy in its development plan. However, it would also provide a small-scale single unit of tourism accommodation. This would help support the rural economy and rural diversification, and increase tourism facilities that take advantage of, and would promote, the county's natural beauty of its countryside. These factors weigh in favour of the proposal.
40. However, the proposal would harm the character and appearance of the rural area. Furthermore, it has not been demonstrated with sufficient certainty that waste water from the proposed foul drainage system would not adversely affect the integrity of the River Lugg/River Wye SAC, a European designated conservation site. These are serious planning objections against the proposal that make it unacceptable. The absence of harm to the setting of the nearby listed building carries neutral weight in my consideration of the proposal.
41. For the reasons above, I conclude the appeal should be dismissed.

*K. Stephens*  
INSPECTOR