



Appeal Decisions

Site visit made on 16 November 2023

by N Praine BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 January 2024

Appeal A Ref: APP/W1850/W/23/3322581

Land at Llangrove, Ross on Wye

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr C Hatt against the decision of Herefordshire Council.
 - The application Ref 220601, dated 7 March 2022, was refused by notice dated 22 November 2022.
 - The development proposed is described as the construction of 3no. bungalows.
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Appeal B Ref: APP/W1850/W/23/3321636

Land at Llangrove, Ross on Wye

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr C Hatt against the decision of Herefordshire Council.
 - The application Ref 220545, dated 15 February 2022, was refused by notice dated 7 November 2022.
 - The development proposed is described as the construction of 2no. dwellings.
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Decision

1. Appeal A and Appeal B are both dismissed.

Preliminary Matters

2. Appeal A and Appeal B relate to two sites located near to each other. The appeal proposals are both outline planning applications for the erection of dwellings. Whilst I shall consider each proposal on its individual merits, I will deal with them in a single document, given that both schemes have much in common, and in the interests of brevity.
3. Throughout the decisions, I shall refer to the proposals as Appeal A and Appeal B respectively, in accordance with the way they are listed in the banner header above.
4. The planning applications for both appeals were submitted in outline form with all matters reserved for future determination. The not all proposed plans are marked as being illustrative or indicative, but the submissions suggest that this is how the appellants intended for them to be interpreted.
5. The National Planning Policy Framework ("Framework") was revised on 19 December 2023 which is a material consideration in planning decisions. Having regard to the matters that are most relevant to this appeal, there have been few notable changes albeit that the numbering of paragraphs has changed. Furthermore, the parties have been given an opportunity to refer to the revised

Framework as part of the appeal process. Hence, I am satisfied that no party would be prejudiced by this change to the national policy context.

Main Issues

6. The main issues are:

- Whether the location of the proposed housing would be appropriate having regard to it being outside the settlement boundary as defined in the development plan (both appeals);
- The effect on the integrity of the Wye Valley Woodlands Special Area of Conservation ("SAC") and the Wye Woodlands and Forest of Dean Bat SAC, with particular regard to protected species and natural habitat (both appeals);
- The effect on the integrity of the River Wye SAC and its status as a Site of Special Scientific Interest ("SSSI"), with particular regard to surface water drainage (both appeals); and
- The effect of the development upon highway safety with particular regard to the access of the site (Appeal B only).

Reasons

Location

7. Both appeal sites lie just outside but adjacent to a settlement area. The development plan for the area seeks to direct development towards the most appropriate locations balancing the need for development with the need to protect the countryside.
8. Policy HOU1 of the Llangarron Parish Neighbourhood Plan 2021 ("Neighbourhood Plan") restricts development to within identified settlement boundaries.
9. I note Policy RA2 of the Herefordshire Local Plan 2011 - 2031 (2015) ("Local Plan") identifies Llangrove as a settlement where new housing would be appropriate. This policy also allows development adjacent to settlements. However, the Local Plan pre-dates the Neighbourhood Plan and I therefore ascribe more weight to the Neighbourhood Plan.
10. Policy RA3 of the Local Plan states that development outside the boundaries of settlements will only be permitted subject to certain exceptions. Both proposals do not meet these exceptions and therefore conflict with Policy RA3.
11. I have also considered previous application reference: 200782, and its associated appeal¹. However, the decisions predate the adoption of the Neighbourhood Plan and as such I assign this limited weight.
12. It is also suggested that the Neighbourhood Plan fails to meet basic conditions and runs contrary to the aims and core visions of neighbourhood planning. However, there is no evidence before me to suggest the Neighbourhood Plan has not been through the due process before adoption including independent examination or has been found to be unsound.

¹ Appeal Ref: APP/W1850/W/21/3270441

13. I therefore conclude that both appeals would not be appropriately located conflicting with the spatial strategy of the development plan. However, before determining the appeals it is necessary to consider what, if any other harm, would be caused by the proposed development and whether there are any material considerations that may outweigh the conflict with the development plan.

Protected Species and Habitat

14. Both appeal sites are identified as being within 3km of sites included within the Wye Valley Woodlands SAC and 10km of sites included within the Wye Woodlands and Forest of Dean Bat SAC. These sites form a network of important high-quality conservation sites that will make a significant contribution to conserving natural habitats and species.
15. Given the natural characteristics of the site and the features within the locality, it is reasonable to expect any potential effects upon species and habitats are fully considered. While hedgerows and trees may be retained and enhanced, bat habitat, foraging and commuting behaviours need to be fully understood.
16. Original survey information was found to be out of date. A more recent Preliminary Ecological Appraisal ("PEA") was therefore submitted with the appeal and the PEA identified habitat offering bat roost suitability across both appeal sites. The PEA concluded that further surveys would be required to assess potential to support bats for roosting, foraging and commuting. However, and despite these recommendations, the further up to date surveys have not been submitted.
17. The PEA also found site suitability habitat for common reptiles and dormice with requirements for further survey. Accordingly, there is reasonable uncertainty concerning the effects of the proposed development on local populations of protected species, natural habitat, and the wider integrity of the SACs.
18. I have considered whether this additional survey work could be required by condition if all other matters were to be acceptable. However, when applying the precautionary principle, I cannot be certain the proposals would not have a likely significant effect either alone or in combination with other plans or projects.
19. As a result, it has not been adequately shown that the integrity of the Wye Valley Woodlands SAC and the Wye Woodlands and Forest of Dean Bat SAC, with particular regard to protected species and natural habitat, would be retained.
20. The appeal proposals would therefore unacceptably conflict with the relevant provisions of Policies LD2 and LD3 of the Local Plan and the Framework. These, amongst other things, seek to retain and protect nature conservation sites, habitats, and important species in accordance with their status.

Surface Water Drainage

21. Both appeal sites are located within the River Wye SAC catchment area. This is a European Designated Site afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended.

22. The appellant has provided percolation evidence for Appeal A but not for Appeal B. The evidence shows, for Appeal A, that ground infiltration conditions are poor. The appellant suggests that the surface water from the roofs would discharge to water butts for re-use in the garden area. Hardstanding, including parking areas, would also be finished in permeable materials.
23. While surface water attenuation calculations have been provided, there is limited information to show how the surface water would be appropriately managed through sustainable drainage or if it would be sufficient across both appeal sites.
24. I have considered whether these details could be agreed by condition if all other matters were to be acceptable. However, the SAC is an area of international importance for its flora and fauna. When applying the precautionary principle, I cannot be certain the proposals would not have a likely significant effect either alone or in combination with other plans or projects.
25. My attention is drawn to a planning appeal² where it was found that there would be no likely significant effect on the River Wye SAC. While I have considered this appeal, the details of the drainage scheme associated with this appeal are not before me. It is therefore difficult to make meaningful comparisons.
26. In addition, this other site is in another part of Llangrove and existing commercial greenhouses were proposed to be demolished. Such demolitions would affect net roof areas and associated surface water runoff. This other appeal decision is therefore different and has limited bearing on both current appeals.
27. I therefore cannot be certain that the appeal proposals would not affect the integrity of the River Wye SAC and its status as a SSSI with particular regard to drainage. As a result, both appeal proposals would conflict with the relevant provisions of Policies SS6, LD2, SD3 and SD4 of the Local Plan and the Framework.
28. These, amongst other things, require development to manage surface water appropriate to the setting of the site, to restore and enhance the biodiversity and geodiversity assets and not undermine water quality targets.

Highway Safety

29. The application form confirms that all matters relating to access are to be reserved for future consideration. The proposed plans for Appeal B provide an indicative access road arrangement, and it is anticipated these dwellings would be served via the existing vehicular access.
30. Vehicle tracking and vehicle trip generation data has been provided with this appeal. The evidence shows that larger cars and vans can access and egress the site in forward gear. In addition, the appellant has drawn my attention to a previous appeal at this site³ where a similar outline proposal was found to provide a safe and convenient access into the site without creating an adverse impact on highway safety.

² Appeal Ref: APP/W1850/W/20/3257511

³ Appeal Ref: APP/W1850/W/21/3270441

31. In this other appeal, the Inspector noted that the access to the site would be close to a boundary wall and would present a slightly awkward access into the site. Additionally, larger vehicles would need to reverse into the lane to gain access to the site in a minimum of two manoeuvres.
32. However, when concluding the Inspector found the use of the access would not result in a hazard to vehicles if undertaken with the proper care and attention expected of any road user.
33. While I acknowledge the points raised by the Council and interested parties, as part of this current appeal, there is limited evidence to show the appeal site has materially changed since the previous Inspector made their decision. The previous appeal decision is therefore a material consideration which carries significant weight.
34. Consequently, the proposal would not unacceptably harm highway safety with particular regard to the use of the access of the site. Accordingly, the proposal would therefore satisfy the relevant provisions of policy MT1 of the Local Plan and the Framework. These, amongst other things, require development proposals to be designed to achieve safe vehicular access.

Other Matters

35. The appeal proposals would add five dwellings in total to housing stock. There would be economic benefits both from the construction phase and the future occupiers. There would also be some social and environmental benefits. Given the modest quantum of housing development proposed, I ascribe moderate weight to these benefits.
36. I have, however, found unacceptable harm arises from both proposed appeals' location and the reasonable uncertainty concerning the effects of the proposed developments on the wider integrity of Special Areas of Conservation and a Site of Special Scientific Interest. I attach great weight to the cumulative total of these harms.
37. While historically the Council's housing land supply has fluctuated, the Council has provided a Five Year Housing Land Supply Annual Position Statement, at 1 April 2023. This document sets the current supply of housing at 5.84 years.
38. The appellant has undertaken their own review of the five year housing land supply position and found this to be 4.75 years.
39. Even if paragraph 11 of the Framework were engaged, and the shortfall in housing were as is alleged by the appellant, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the moderate benefits resulting from five dwellings.
40. Accordingly, the material considerations in this case do not indicate the proposals should be determined other than in accordance with the development plan when taken as a whole. The appeal schemes would not, therefore, benefit from the presumption in favour of sustainable development.
41. The appellant has expressed concerns regarding the time taken to reach a decision by the Council during the application process. Whilst this must have caused the appellant some distress, this does not materially affect my consideration of the planning merits of the appeal proposals.

42. I have also considered the various other concerns raised by interested parties. However, none of the other matters raised outweigh or alter my conclusions on the main issues.

Conclusion

43. Appeal A and Appeal B are contrary to the development plan as a whole and there are no other material considerations of sufficient weight to indicate a decision should be made other than in accordance with the development plan. I therefore conclude that both appeals should be dismissed.

N Praine

INSPECTOR