



Appeal Decision

Site visit made on 27 March 2024

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 June 2024

Appeal Ref: APP/W1850/W/23/3326584

Sheepcotts, Ullingswick, Herefordshire HR1 3JQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs Perry against the decision of Herefordshire Council.
 - The application Ref is 221177.
 - The development proposed is described as: erection of 1 no. dwelling of outstanding design and associated works including access, landscaping, outbuildings, infrastructure, lake creation and other engineering works.
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Decision

1. The appeal is dismissed.

Background and Main issues

2. Policy RA2 of the Herefordshire Local Plan – Core Strategy 2011 – 2031 ('CS') says that the minimum growth target in each rural Housing Market Area will be used to inform the level of housing development to be delivered in the various settlements. The proposal is for a dwelling outside of any development plan settlement boundary and therefore for the purposes of the development plan this is located within the open countryside.
3. Accordingly, the proposal falls to be considered under Policy RA3 of the CS. The supporting text to this Policy explains that outside of the settlements new housing will be restricted to avoid unsustainable patterns of development and to proposals which meet the criteria listed in Policy RA3 of the CS. This includes criteria 6, which says: is of exceptional quality and innovative design satisfying the design criteria set out in paragraph 55 of the National Planning Policy Framework and achieves sustainable standards of design and construction'. Through various iterations of the National Planning Policy Framework, paragraph 55 has been changed.
4. When the application was made a previous version of the National Planning Policy Framework was in force. This version enabled, at paragraph 80 e) for the development of isolated homes in the countryside in instances where the design is of exceptional quality, in that it: - is truly outstanding, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and - would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area. Since the application was determined, although Paragraph 80 e) has been replaced by Paragraph 84 e) in the 2023 version of the National Planning Policy Framework ('the Framework') its wording remains the same. The 2023 version

supersedes the previous, and is the version under which this appeal is considered.

5. Based on legal judgements referred to me, the meaning of the word 'isolated' should be given its ordinary objective meaning of 'far away from other places, buildings or people; remote.' Whether a proposed new dwelling is, or is not, 'isolated' in this sense will be a matter of fact and planning judgment for the decision-maker.
6. In this case, the appeal proposal is about 420m from the closest building, an outbuilding at Sheepcotts Court. A cluster of industrial buildings operated by 'Turners Farm Equipment Suppliers' is approximately 430m north of the proposed dwelling. These are not viewed as a 'settlement' given the small number of buildings at each location which are in sole ownership. The nearest 'settlement' is the loosely arranged limited number of buildings which form the Ullingswick Conservation Area ('CA') about 570m southeast of the proposed dwelling. Based on the location of the site, its limited relationship with buildings in the locality and the nearest settlement, I concur with the main parties that the site is 'isolated' in the context of the Framework and Paragraph 84 e).
7. The Council is of the view that the proposal does not meet the 'exceptional quality' requirements of Paragraph 84 e) of the Framework and therefore the proposal cannot be supported in a countryside location. Also, the appeal site comprises an arable field, which, in part, would be lost to facilitate the proposal and the Council also objects to this.
8. Against the above background, the main issues are: i) whether the proposal can be supported in a countryside location under paragraph 84 e) of the Framework, taking into account the character and appearance of the surroundings including the adjacent Ullingswick CA, and ii) the effects of the proposal on agricultural land.

Reasons

Character and appearance

Whether the design is truly outstanding, reflecting the highest standards in architecture.

9. The appeal site comprises a large arable field, three smaller grassed fields and a woodland block adjacent to and west of the arable field.
10. To take advantage of far-reaching views, principally to the south, but also to the east and west, the location for the proposed dwelling is along the northern part of the arable field.
11. The arable field is defined by boundary planting. In particular, the area where the proposed dwelling is to be located forms a steep hill. A Bridleway intersects the site along the southern boundary of the arable field. This is part of the Three Rivers Ride ('TRR') an established walking trail. Due to its undulating topography, landscaping along the northern ridge and the sylvan backdrop of areas of woodland, the arable field along with the surrounding countryside, positively contributes to the areas unspoilt and attractive rural setting. This is particularly evident in views from the TRR and nearby.

12. The submitted Landscape and Visual Appraisal ('LVA') confirms that the appeal site and surrounding area are largely representative of its national and regional landscape characteristics. This includes rolling lowland landscapes with occasional steep-sided hills and low escarpments, which have a small-scale, wooded, agricultural appearance. Overall, these contribute to a deeply tranquil, rural character, which has largely escaped the pressures of modern development. It retains much of its historical built character and is sparsely populated with hamlets, isolated churches, small manor houses, local country houses within parks and traditional buildings.
13. Locally, the landcover in the area is predominantly agricultural and pastoral farmland, interspersed with blocks of woodland. There are also several traditional orchards scattered throughout.
14. I concur with the LVAs conclusions that the level of Landscape Value of the area in which the site is situated is Moderate to High. In light of this, the level of Susceptibility to Change of the local landscape is also judged to be Moderate to High.
15. Drawing on the above factors, in particular, the arable field is prominent, attractive and sensitive to change.
16. The submissions include a detailed assessment of the character of the site and surrounding area, and this has informed the proposal. I am also aware that the scheme before me has evolved following a multi-disciplinary and lengthy design process, including a previous refusal of planning permission. The design process includes input from an independent Design Panel (Design:Midlands) who have endorsed the submitted scheme as being of 'exceptional design.'
17. Whilst I have had regard to the above, as to whether the design is of exceptional quality in the context of the Framework, requires a degree of subjectivity in the consideration of such matters. Therefore, I must form my own view based on my observations and the evidence put before me.
18. Given the site's rural context a landscape-led approach has been adopted for the proposed scheme. The proposed dwelling would be partly submerged into the hillside, and its flat roof design is intended to limit its height so that its form does not interrupt the tree lined northern ridge of the site.
19. Even so, a mainly two storey building with extensive facades would introduce a substantial amount of new development in an otherwise attractive and undeveloped field. Despite its split-level form, the dwelling incorporates a particularly elongated southerly façade, which extends appreciably across one of the narrower and prominent sections of the site.
20. Building facades and walling are to mainly comprise natural sandstone and timber finishes inspired by the local vernacular. Darker sandstone would be used at the eastern and western extremities of the building, gradually mixing to the lighter sandstone. This is intended to enable the darker edges of the building to recede into the landscape, making these less prominent than the central section and also emphasising the building's flowing form. Nevertheless, the southerly façade is dominated by a substantial entrance feature and other openings, these would reduce the intended visual effect of the sandstone. Moreover, these expansive openings, along with the use of balustrades would

give the building a particularly urban style which would contrast with its naturalistic setting.

21. The upper level of the dwelling, including the glazing associated with this, would be set back behind a stone outer skin, which will support a large roof overhang. At ground floor the central glazed entrance and windows would be recessed within deep reveals and some of the frames extend forward of the façade. These features along with the use of lighting technology and special glass are intended to minimise light spill. Despite this, because of the dwelling's location in a hillside with its main living accommodation located along its upper floor, without any technical assessment, there is no certainty that lighting associated with the dwelling, would not unacceptably undermine this deeply rural landscape and its dark skies.
22. The curved form of the dwelling is intended to flow into and out of the landform, in line with the 'flow' design theme. In particular, the proposed meadow to the fore of the dwelling is designed to support the flowing and organic form of the dwelling. The vehicle parking and service areas would be located to the north of the dwelling to support this and minimise visual clutter.
23. Because of the proximity of the meadow to the dwelling and its size, there is no certainty that this would not be used for parking or other residential and leisure related paraphernalia. Thereby, diluting the organic effect of the development. Indeed, contrary to the landscape strategy, the area closest to the front of the dwelling is identified as landscaping/garden area in the submitted Ecological Enhancement and Management Plan.
24. Based on the foregoing reasons, and despite the considerable attention to siting, design and materials, the proposed dwelling would dominate rather than harmonise with the hillside and would therefore have an erosive effect on the quality of this rural landscape. In particular in views from the TRR. As such, I do not consider this to reflect the highest standards in architecture.
25. The southerly aspect of the hillside is utilised for passive solar gain and the proposed dwelling would be a Passivhaus design. Passivhaus as a concept has been about for some time and is not innovative in itself. However, the scheme seeks to harness a number of established renewable technologies such as: Earth Energy Bank, Ground Source Heat Pump, Photovoltaic Thermal units and Ground Supercharger, in a unique way, to capture, store and utilise energy for the proposed dwelling to minimise the need for 'on grid' energy.
26. Parts of the building incorporate 'Rammed Earth' walling. This comprises compacted layers of aggregates, some of which would be excavated from the site. Because of its thermal mass and insulating qualities, the rammed earth walling would provide insulation, to assist with the overall heating strategy for the dwelling. The roofing would be finished with a membrane which neutralises carbon dioxide into a harmless residue.
27. Consistent with the 'flow' design theme, surface water run-off from the house would be discharged initially via a stream, into an attenuation lake/pond, before being discharged into the existing watercourse.
28. Together, the above measures would ensure that the development is of sustainable design and construction. Whilst this is an expectation for most development, I acknowledge that the proposal is particularly innovative with

regard to its use of materials, renewable technology, recycling and drainage. However, this, in itself, would not elevate the overall design to the level of truly outstanding.

29. The dwelling's positioning and internal arrangement are intended to maximise views of the countryside. Nonetheless, this is not unusual for an architect-led, high quality scheme for a substantial new dwelling in the countryside.
30. The appeal site covers an extensive area and most of this would be utilised to provide a landscaped setting for the proposed dwelling. This broadly comprises three landscaped zones.
31. The first zone 'Parkland' incorporates the southern part of the site where the entrance to the proposed dwelling is to be located. This area is arranged around an existing lake, where new parkland trees would be introduced, as well as an avenue of lime trees along the access route which would be in the form of an old farm track. The second zone seeks the restoration of a historic orchard. The third zone would form an open hay meadow as a context for the arrival area for the new dwelling.
32. Whilst the proposed meadow and orchard would deliver a change to the local landscape, this would not result in any significant visual benefits given that the arable field already positively contributes to the landscape and visual amenity of the area.
33. Because the area for the proposed Parkland already incorporates the lake and landscaping, even when accounting for some minor detracting elements associated with Sheepcotts Court, the new planting in this area, would only provide modest benefits to the character and appearance of the area.
34. As such, the proposed landscaping and its considerable biodiversity improvements would not significantly enhance the existing environment, which is rural in character and is of some ecological value commensurate with its extant land uses.
35. The landscaping strategy would also provide an experience and journey for visitors to the dwelling. Even so, this would be to support a proposed dwelling which I have found to not reflect the highest standards in architecture.
36. The scheme incorporates other built forms, including some ornamental features. There will also be a lakeside seating area with interpretation boards for users of the TRR. Whilst it is asserted that these would enhance the experience of the users of the TRR, there is no strong evidence to support this. Accordingly, I do not accept the LVAs conclusion that from 2 VPs along the TRR, the levels of effects are judged to be Moderate Beneficial, on the basis that users would enjoy the proposed improvements and enhancements.
37. In my opinion, the LVA underestimates the effect of the development from along the TRR where this runs along and near the southern edge of the arable field. From these near-distance views, the proposed dwelling would be clearly visible and would dominate and detract from these views, which are largely appreciated for their natural character and beauty. Whilst the proposed orchard would provide some filtering of these views from the TRR, this would take considerable time to establish.

38. Given the scale of the proposed dwelling and its siting within a hill, amongst a deeply rural landscape, this would appear conspicuous from certain other views, such as VPs 14, 7a and 7b, particularly during winter periods when leaf cover is reduced.
39. The proposal seeks to integrate a sizeable dwelling of a contemporary design into a prominent and rural landscape, which is a difficult design exercise because the contrast between the built form and the landscape is very high.
40. I accept that the submitted scheme is designed to a high standard and is a well-considered exercise in contemporary design that takes advantage of the sloping topography of the site. Nonetheless, for the above reasons, this falls short of being truly outstanding design.

Whether the design would help to raise standards of design more generally in rural areas

41. Although I do not consider the design of the proposal to be truly outstanding, considerable thought has been given to the proposed dwelling, to form part of the landscape and secure a design which incorporates renewable technologies. I see no reason why this approach or elements of the scheme could not be used to secure high quality design solutions and raise architecture and sustainability standards in rural areas.

Whether the design would significantly enhance its immediate setting

42. I acknowledge that under the provision of Paragraph 84 e), the requirement to 'significantly enhance setting' must be viewed in the context that a new dwelling will be erected where there is none at present.
43. The location of the proposed dwelling comprises part of a prominent and rural landscape of local value. As a consequence of the proposal, a considerable part of this landscape (arable field) would be permanently lost. The proposal introduces a sizeable dwelling where none exists at present and would permanently change the landscape.
44. In my view, the scale of the dwelling would overwhelm and detract from its very rural setting. Whilst the proposed landscaping would be extensive and includes biodiversity enhancements, for the reasons already given, this would not significantly enhance its immediate setting.

Whether the design would be sensitive to the defining characteristics of the local area.

45. With regard to the context for the proposal, the appellants suggest that this is characteristic of 'the country house' usually built for gentlemen or women of standing, and would be sited in a prominent, or even dominant position, either for protection, or to reflect social standing. However, I have insufficient information of these types of developments to draw any useful comparisons with the proposal.
46. Based on my observations, the sporadic built forms in the area, including at Ullingswick are generally of traditional designs and settled within established mature landscaping. As such, and in particular near the appeal site, the defining characteristics of the local area are its rural landscape.

47. Therefore, because the proposal would introduce a substantial development into an unspoilt rural setting, this would not be sensitive to the defining characteristics of the area.

Heritage assets

48. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special regard to the desirability of preserving listed buildings and their setting. Section 72(1) of the same act imposes a requirement that special attention should be paid to the desirability that the character or appearance of the conservation area should be preserved or enhanced.
49. Ullingswick CA encompasses the historic core of the settlement and incorporates a scattered group of farm buildings and other buildings. This has a distinctly rural setting, including a number of listed buildings.
50. The proposed dwelling would be isolated from the CA and development within it. Therefore, and on the basis of the evidence before me, the presence of the proposed dwelling would not harm the setting or significance of the Ullingswick CA.
51. There is limited inter-visibility between the appeal site and the abovementioned listed buildings. The Church of St Lukes, which is Grade II* listed is the closest to the appeal site. This is a small church constructed from local rubble sandstone with freestone dressings and tile roof. The significance of this is largely derived from its history and architecture. The setting of the church is mainly limited to its extensive landscaped boundary. As such, the proposal would not affect the significance or setting of this heritage asset.
52. Nonetheless, based on the foregoing reasons, the proposal does not reach the standard of design sought in paragraph 84 e) of the Framework, and would harm the character and appearance of the area. Accordingly, the proposed dwelling in a countryside location is not supported by Policies RA2 and RA3 of the CS. As such, I also find conflict with CS Policy SS7, which amongst other things seeks to focus development in the most sustainable locations.
53. The proposal also fails to accord with CS Policy LD1, which requires that proposals conserve and enhance the natural, historic and scenic beauty of important landscapes and features. Because of the adverse effect of the proposal on views from part of the TRR, this conflicts with the aims of CS Policy LD3 with regard to protecting Green Infrastructure. Accordingly, I also find conflict with CS Policy SD1, which amongst other things aims to create sustainable, well-integrated environments for all members of the community and CS Policy SS1, which sets out a presumption in favour of sustainable development, where a proposal accords with the development plan.
54. The Council's decision also refers to other CS policies, SS2 and SS3 which relate to housing targets and are not directly relevant to this main issue.

Loss of agricultural land

55. The Framework defines land in Grade 1, 2 and 3a of the Agricultural Land Classification as best and most versatile ('BMV') agricultural land. The Framework says that planning policies and decisions should contribute to and

enhance the natural and local environment by amongst other things the economic and other benefits of the best and most versatile agricultural land.

56. The Guide to Assessing Development Proposals on Agricultural Land identifies five grades of agricultural land; ranging from Grade 1 (the best) to 5 (worst). The main parties agree that the appeal site falls under Grade 3 termed 'Good to Moderate'.
57. Grade 3 is subdivided into class 3a and 3b. On the information before me, the appeal site is not suitable for crops associated with Class 3a given its soil quality, awkward shape and sloping land. As such, and because principally the arable field is used for wheat, I concur with the appellants that the land classification should be Grade 3b which is not BMV Agricultural Land. Furthermore, the arable field, in part, is intended to remain in agricultural use as an orchard and the fruit from this would be harvested and sold.
58. Accordingly, the proposal would not have an unacceptable effect on BMV Agricultural Land. Therefore, this would not undermine the aims of CS Policy SS7, which seeks to protect the best agricultural land where possible, and CS Policy RA6, which seeks to support and strengthen local food and drink production of the local area.

Other Matters

59. The appeal site is located within the River Lugg sub-catchment of the River Wye Special Area of Conservation ('SAC'), a European designated site which is protected by the Conservation of Habitats and Species Regulations 2017, as amended ('Habitats Regulations') as being of international importance for its aquatic flora and fauna. At present, levels of phosphates in the River Lugg exceed water quality objectives and it is therefore in unfavourable condition. Where a European designated site is considered to be 'failing' its conservation objectives there is limited scope for the approval of development which may have additional damaging effects.
60. In order for development to be acceptable, the Habitat Regulations require it to be demonstrated that the proposal would have no likely significant effect on the River Wye SAC, either alone or in combination with other proposals. If it cannot, measures must be proposed to remove the impact, or the proposal should be refused.
61. As the decision maker and competent authority, I must consider mitigation measures intended to avoid or reduce the harmful effects on a protected site within the framework of an Appropriate Assessment. However, as I am dismissing this appeal for another reason, it is not necessary for me to undertake this.
62. I have noted the submitted appeal decisions and the Council's report on a planning application, which relate to proposals predicated on previous iterations of Paragraph 84 e) of the Framework. However, given that the determination of the appeal before me relates to a particular site and a specific proposed scheme, these do not alter my findings in respect of the first main issue.

Conclusion

63. Although I have found that the proposal would not have an unacceptable effect on BMV Agricultural Land, because the proposal does not reach the standard of

design sought in paragraph 84 e) of the Framework, and would harm the character and appearance of the area, the proposed dwelling is not supported in a countryside location. For this reason and conflict with the development plan, I conclude that the appeal should be dismissed.

M Aqbal

INSPECTOR