

Appeal Decision

Site visit made on 21 August 2024

by B Phillips BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd October 2024

Appeal Ref: APP/W1850/W/24/3342285

**Land west of Chapel Cottage, Glewstone, Ross on Wye, Herefordshire
HR9 6AW**

- 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 Richard Williams against the decision of Herefordshire Council.
 - The application Ref is 222394.
 - The development proposed is 5 detached houses.
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Decision

1. The appeal is allowed and planning permission is granted for 5 detached houses at Land west of Chapel Cottage, Glewstone, Ross on Wye, Herefordshire HR9 6AW in accordance with the terms of the application, Ref 222394, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

2. The Government published in December 2023 a revised version of the National Planning Policy Framework (the Framework). The Council and the appellant have referenced this document within their appeal statements and as such I am satisfied that no party would be prejudiced by my also making reference to the Framework in this decision.
3. In November 2023, the National Landscapes Association reported that all designated Areas of Outstanding Natural Beauty (AONBs) had become National Landscapes. However, the Framework continues to refer to them as AONBs. In this decision I have used the term AONB, consistent with the evidence and the Framework. The legal designation and policy status of such areas is unaffected, whichever term is used.

Main Issues

4. The main issues in this case are:
 - whether the appeal site is a suitable location for the proposal having regard to the development plan and national strategy, including whether the site has access to services and facilities; and

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- the effect of the proposal on the character and appearance of the area, including the including the landscape and scenic beauty of Wye Valley AONB.

Reasons

Location and access to services

5. Policy SS1 of the Herefordshire Local Plan-Core Strategy (CS) sets out a presumption in favour of sustainable development. CS Policy RA2 states the minimum growth target in each rural Housing Market Area (HMA) will be used to inform the level of housing development to be delivered in the various settlements. It states that to maintain and strengthen locally sustainable communities across the rural parts of Herefordshire, sustainable housing growth will be supported in or adjacent to those settlements identified in Figures 4.14 and 4.15.
6. The site is located within the Ross-on-Wye HMA. Glewstone is detailed within Figure 4.15, which identifies '*Other Settlements where proportionate housing is appropriate.*'
7. The Council set out that housing delivery in the wider Ross-on-Wye HMA has reached the target of 1150 in the plan period, through a combination of completions, commitments and sites allocated in a Neighbourhood Development Plan (NDP).
8. The supporting text to Policy RA2 sets out that NDP's will be the principal mechanism by which new rural housing will be allocated, with a proportionate growth target given as a minimum level of new housing to be accommodated within each NDP. I acknowledge that the Council can demonstrate a 5-year housing land supply, however, the Government's broader objective is to significantly boost the supply of homes. In the absence of a relevant NDP, there is nothing before me to suggest that there is not available capacity within the parish of Marstow, where Glewstone is located, for further development, indeed the Council set out in pre application advice¹ that the parish has a shortfall in its indicative housing target.
9. Even if a number of new dwellings have been built in Glewstone in a short space of time, as set out above, it is clear that the target figures are a minimum growth requirement, and there is nothing before me that indicates that these figures are a ceiling or limit to the number of dwellings that can be permitted in any Parish area or HMA.
10. In the context of the settlement of Glewstone, the provision of 5 dwellings, along with the other development consented, is proportionate, and I find that, given the dwellings to the east and west, the appeal site is adjacent to its main built-up area. There is no substantive evidence before me to indicate that the scale and type of the proposed dwellings would not meet local need. Consideration of contribution to surrounding environment and landscape are set out below, and as set out, I find no harm in this respect. As such, I find no conflict with the criteria set out in CS Policy RA2.

¹ 210410/CE

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11. Whilst there are no employment opportunities within Glewstone, the Framework sets out that development in one village may support services in a village nearby. The Framework also sets out that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. Nevertheless, there is a bus service going through Glewstone that would provide future occupiers with a choice of transport options. Notwithstanding this, neither CS Policies SS1 nor RA2 make specific mention of transport options or services and facilities, and the CS specifically identifies Glewstone as a 'locally sustainable settlement' where housing is appropriate.
 12. I conclude that the proposal is suitably located having regard to the development plan and national strategy and access to services and facilities. I find no conflict therefore with the sustainable development goals of CS Policies SS1 and RA2 and the Framework.

Character and appearance

13. The appeal site sits within a central gap between housing areas to the west and east and faces the highway extending through the village. The site is currently part of a large arable field that extends to the south, and adjacent to the road is slightly elevated behind the roadside hedge. The site is within the Wye Valley AONB.
14. The Council set out that the landscape character assessment was updated in 2023, and this area is now classified as 'Shallow Vales', and in close proximity to 'Rolling Brownstone Plateau'. However, it is stated that in essence, the characteristics of the 'Principal Settled Farmlands' as defined at the time of the application are generally consistent with new classifications, but with an added emphasis on the open character of the landscape resulting in views across the landscape, hedgerow features, and tranquillity. The Principal Settled Farmlands Landscape Type is typified by a notably domestic landscape character, defined chiefly by the scale of its field pattern, the nature and density of its settlement and its traditional land uses.
15. The existing site is seen in the context of the adjacent housing and is a gap between built form, fronting a highway. Given this location, it contributes little to the wider open and tranquil character of the landscape.
16. When viewed from distances, the development would appear as a logical extension of the linear highway-fronting built form. Whilst closing the gap, the development would therefore be seen in the context of this existing surrounding built form and would not introduce a new character. The character of the surrounding field pattern to the rear would largely remain and the generous spacing between dwellings would retain views through and a sense of openness.
17. The road through Glewstone is generally constrained by the roadside hedges, walls and dwellings. However, there are open verges and front gardens evident nearby the appeal site. Visible dwellings on both sides of the lane are characteristic of the settlement. The proposal would involve the set back of the roadside hedgerow in order to create the new access and visibility splays, and the creation of a grassed verge area. Along with the creation of a new access road parallel to the main road, this would be similar to the

existing access and verge to Malmo Place, directly to the west. Whilst the appearance of the lane at this point would change, it would not appear incongruous in this respect.

18. Similarly, the dwellings would, given the slight rise in land levels from the highway, be elevated from the roadside level. This is common for the dwellings on this side of the highway and would be again, similar to the Malmo Place development. Whilst the dwellings would be visible from the highway, this would not compromise the existing character of the settlement and would not have a harmful effect on localised views from the highway itself, or from other highways nearby. A condition would ensure that light levels remain appropriate and unobtrusive to the wider setting.
19. The proposed development would be appropriate in its visual effect on the immediate surroundings and from distance views. As such, I am satisfied that the proposal would conserve the character and natural beauty of the AONB.
20. I therefore conclude that the proposal would not harm the character and appearance of the area, including the Wye Valley AONB. There is no conflict with CS Policies RA2 (3) and LD1, which require development to demonstrate particular attention to the form, layout, character and setting of the site and its location in that settlement, in addition to conserving and enhancing the AONB. The development would also not conflict with the Framework, which sets out that great weight should be given to conserving the landscape and scenic beauty of AONBs, nor the Wye Valley AONB Management Plan, which seeks to ensure that development is high standard and complements and enhances the local landscape character.

Other Matters

21. The site is within the hydrological catchment which comprises part of the River Wye Special Area of Conservation (SAC); a habitat recognised under the Habitats Regulations as being of international importance for its aquatic flora and fauna.
22. The River Wye has a range of nutrient conditions and aquatic habitats and generally good water quality for fish species. Whilst the Council set out that Natural England (NE) have not currently advised that this catchment area is failing its conservation status, the Site Improvement Plan² (SIP) sets out that hydrological changes and water pollution are pressures/threats to the site. The proposed development of five dwellings, although limited in scale, has the potential to impact the integrity of the SAC, through surface/foul water drainage increasing pollution within the watercourses within the catchment of the SAC. Such matters are likely to have an adverse effect upon the integrity of the SAC. As such it is necessary to carry out an appropriate assessment (AA) as part of my decision.
23. CS Policy SD4 relates specifically to wastewater treatment and river water quality. It seeks to ensure that water quality targets for rivers within the county are maintained. Amongst other matters, the policy allows for the use of package sewage treatment works in new development, subject to criteria.

² Improvement Programme for England's Natura 2000 Sites (IPENS) Site Improvement Plan River Wye (2014)

This includes a requirement that the proposal is accompanied by information to demonstrate there will be no likely significant effect on the water quality of designated sites, notably the River Wye SAC.

24. Furthermore, CS Policy SD4, as per the Habitats Regulations, requires that permission may only be granted after having ascertained that it will not affect the integrity of the European site. Consideration may be given 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.
25. The submitted drainage strategy³ (DS) sets out that the site would drain its foul water into the public sewer, in accordance with CS Policy SD4 and each individual dwelling and garage would have individual soakaways. Welsh Water have confirmed that there is an existing system within the village that has capacity, although it will be up to the applicant to provide a connection to that system.
26. In relation to surface water, the DS sets out that soakaway test results undertaken within the granular Brownstones Formation returned good infiltration rates. It is considered that disposal of surface water to infiltration devices is feasible for this site. The strategy recommends that consideration is given to incorporating some form of rainwater reuse system into the proposed properties to reduce the volume of water for discharge to soakaway.
27. Further details are therefore necessary; however, the DS is clear that infiltration is feasible at the site. A suitable condition would ensure that appropriate onsite infiltration-soakaway systems are secured prior to the occupation of the approved dwellings. These measures would mitigate any effect on the SAC, in accordance with the hierarchy stated under CS Policies SD3 and SD4, and the measures outlined in the SIP.
28. This approach is supported by NE who have confirmed that these mitigation measures would be effective in addressing the likely significant effects arising from the development of this site when considered in combination with other plans and projects. I have no reason to reach a different conclusion. The submitted details and condition would secure the mitigation set out above. Based on the forgoing, I am able to ascertain, as the competent authority undertaking the AA that whilst the integrity of the SPA would be affected by the development, this could be overcome with the proposed mitigation.
29. The scheme would therefore comply with the Regulations.
30. The claim that the village has low water pressure is not substantiated, and Welsh Water have offered no objection to the proposal. The increase in vehicles using the roads would be limited, given the scale of development, and even if they are in poor condition at present, this would not lead to deterioration of the road surfacing. Similarly, whilst there are no pavements in the area, the limited number of journeys associated with 5 additional dwellings would not lead to any highway (in addition to pedestrian) safety or

³ Surface Water Management and Foul Drainage Strategy for Glewstone, Ross-on-Wye Contract Ref: FS003, by James Spreckley on behalf of RG & RB Williams, June 2022

traffic generation issues. The submitted transport assessment⁴, sets out that a review of the local highway network and collision data in the vicinity of the site indicates that there are no apparent problems in relation to the current operation or safety of the local highways. I have no substantiated evidence before me to contradict these findings. Whilst the road at this point is on a curve which effects forward visibility, a condition requiring adequate visibility splays would ensure the access is safe.

31. A condition relating to biodiversity net gain would ensure that the development protects and improves biodiversity and ecology features of the site.
32. The loss of agricultural land would be minor, and the development plan policies referenced above do not make any reference to the protection of such land in this instance. As such, this issue is not determinative.
33. The submitted plans show that appropriate separation distances between the new dwellings and in relation to their relationship with the existing nearby properties to ensure that there would be no unacceptable effect on privacy. There would also be no issues in relation to nuisance. Given the variety in garden sizes in for the dwellings within the settlement, the proposed garden sizes would not appear incongruous.

Conditions

34. A list of suggested conditions has been provided that the Council and/or the appellants consider to be appropriate. I have considered these in light of the PPG and the tests set out in the Framework. For clarity and to ensure compliance with the tests, I have amended some of the suggested wording.
35. In addition to the standard time limit condition, and those stated above, I have imposed a condition requiring the development to be carried out in accordance with the approved plans as this provides certainty. As set out above, a separate condition requiring the materials to be agreed is appropriate, for clarity and to ensure that the development is in keeping with the surroundings. A suitable landscaping scheme is also necessary in order to safeguard the visual amenity of the area.
36. Conditions requiring that foul water is managed by connection to the local mains sewer and the requiring the submission of suitable drainage details are necessary, as set out above, in order to ensure that the development mitigates any effect on the SAC. A condition is also required to ensure that a Construction Management Plan is submitted, in order to ensure that the construction process does not harm highway safety. These last two conditions are required to be pre-commencement, in order to ensure that all details are appropriate, finalised and secured prior to development starting on site.
37. As set out above, a condition securing the ecological protection and working methods scheme, including biodiversity net gain is necessary in order to ensure the development protects and improves biodiversity features of the site. Conditions requiring the provision of suitable visibility splays, gate

⁴ Technical Note by Cotswold Transport Planning October 2021

location, parking spaces and turning area, and appropriate gradient of access are necessary in the interest of highway safety.

38. A condition securing appropriate cycle facilities is necessary in order to encourage alternative modes of transport. On wider sustainability requirements, given the sensitive location of the proposal in this regard, a condition requiring enhanced water efficiency standards is necessary to ensure relevant compliance with technical standards and policies sought by the Policy SD3 of the CS.
39. A condition restricting external light is also necessary, in order to protect the wildlife and general amenity of the area.
40. The Council recommend a condition removing permitted development rights. Paragraph 200 of the Framework states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification for doing so. The Planning Practice Guidance (PPG) advises that conditions restricting the future use of permitted development rights should only be used in exceptional circumstances. In this case I find that the Council has not provided clear justification that the exercise of such rights would be harmful to the character and appearance of the area or the living conditions of nearby occupiers. As such I find that such a condition is not reasonable in this case.

Conclusion

41. There are no material considerations that indicate the development should be determined other than in accordance with the development plan. For the reasons given above and having regard to all other matters raised, the appeal is allowed.

B Phillips

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with drawing nos: PLS2021JPJP02_02; 1821.00; -01; -02; -03; -04; -09; -10; -11; -12; -17; -18; -19; -20; -21; -22; -23; -24.
3. No development above ground level shall take place until details / samples of the materials to be used in the construction of the external surfaces of the extension hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details / samples.
4. Prior to the commencement of development, a Construction Management Plan shall be submitted to and approved in writing by the local planning authority, and which shall be operated and maintained during construction of the development hereby approved. The plan shall include:
 - A method for ensuring mud is not deposited onto the Public Highway
 - Construction traffic access location
 - Parking for site operatives
 - Construction Traffic Management PlanThe development shall be carried out in accordance with the approved details for the duration of the construction of the development.
5. Prior to the commencement of development, a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, shall be submitted to and approved in writing by the local planning authority.

The submitted details shall include a timetable for its implementation and provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

The development shall be carried out in accordance with the approved details. The sustainable drainage system shall be managed and maintained thereafter in accordance with the approved management and maintenance plan.

6. All foul water will be managed by connection to the local mains sewer.
7. The ecological protection and working methods scheme, including all biodiversity net gain and habitat enhancements and management as

detailed in the ecology report by Ecology Services dated January 2022 shall be implemented in full and thereafter maintained as approved.

8. Prior to the first occupation of the dwellings hereby approved, visibility splays, and any associated set back splays at 45 degree angles shall be provided from a point 0.6 metres above ground level at the centre of the access to the application site 2.4 m and 41.2 metres back from the nearside edge of the adjoining carriageway (measured perpendicularly) for a distance of metres in each direction along the nearside edge of the adjoining carriageway. 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.
9. Any new access gates/doors shall be set back 5 metres from the adjoining carriageway edge and shall be made to open inwards only.
10. Prior to the first occupation of the dwellings hereby approved 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.
11. Prior to the first occupation of the dwellings hereby approved, the driveway, vehicular turning area and drainage arrangements shall be carried out in accordance with details to be submitted to and approved in writing by the local planning authority. The driveway and/or vehicular turning area shall be consolidated and surfaced at a gradient not steeper than 1 in 8. Private drainage arrangements must be made to prevent run-off from the driveway discharging onto the highway. The development shall be thereafter maintained in accordance with the approved details.
12. Prior to the first occupation of the dwellings hereby approved, an area shall be laid out within the curtilage of each property for the parking and turning of 2 cars which shall be properly consolidated, surfaced and drained in accordance with details to be submitted to and approved in writing by the local planning authority, and that area shall not thereafter be used for any other purpose than the parking of vehicles.
13. Prior to the first occupation of the dwellings hereby approved full details of a scheme for the provision of covered and secure cycle parking facilities within the curtilage of the dwellings shall be submitted to the Local Planning Authority for their written approval. The covered and secure cycle parking facilities shall be carried out in strict accordance with the approved details and available for use prior to the first use of the development hereby permitted and thereafter maintained.
14. A scheme demonstrating measures for compliance the Building Regulations optional requirement of a water consumption rate of no more than 110 litres per person per day, shall be submitted to and approved in

writing by the local planning authority. The development shall be carried out in accordance with the approved details prior to the first occupation of the dwellings hereby approved and maintained as such.

15. Prior to the first occupation of the dwellings hereby approved, a landscape scheme shall be submitted and approved in writing by the local planning authority. The scheme shall include a scaled plan identifying:
- a. Trees and hedgerow to be retained, setting out measures for their protection during construction, in accordance with BS5837:2012.
 - b. Trees and hedgerow to be removed.
 - c. All proposed planting, accompanied by a written specification setting out species, size, quantity, density with cultivation details.
 - d. All proposed hardstanding and boundary treatment.
- The hardstanding and boundary treatment shall be implemented in accordance with the approved details prior to the occupation of the dwellings hereby approved.
16. 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 5 years of planting will be replaced in accordance with the approved plans.
17. At no time shall any external lighting, except low power (under 550 Lumens/5 watts and <3000 Kelvin), 'warm' LED lighting in directional down-lighting luminaires on motion operated and time-limited switches be installed or operated in association with the approved development, and no permanently illuminated overnight external lighting shall be operated at any time.

End of Schedule