



Appeal Decision

Site visit made on 4 February 2025

by K Townend BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 March 2025

Appeal Ref: APP/W1850/W/24/3350500

Glenwood Springs, Chase Road, Colwall, Herefordshire WR13 6DJ

- 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 Mark Yardley against the decision of Herefordshire District Council.
 - The application Ref is 213413.
 - The development proposed is the erection of a dwelling of outstanding design and accompanying works, including a new access, extensive landscaping, biodiversity improvements, and drainage arrangements.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Following correspondence between the parties, the Council has confirmed within its Statement of Case that it is no longer seeking to defend the third reason for refusal which concerned the local housing need.

Main Issues

3. The main issues are:
 - whether the proposed development would meet the policy exception for new dwellings in the countryside as set out in the Framework and the local housing strategy; and
 - the effect of the development on the Malvern Hills National Landscape.

Reasons

Dwellings in the countryside

4. Policy RA2 of the Herefordshire Local Plan Core Strategy 2011-2031 (the LP) seeks to focus new housing development within, or adjacent, to the main built-up areas of the identified settlements. Policy CSB1 of the Colwell Neighbourhood Development Plan 2021-2031 (the NDP) supports residential development within the settlement boundary identified. The appeal site lies outside of the settlement boundary for Colwell and away from the main built-up area. It is, therefore, considered to be in the countryside for planning purposes.
5. Policy RA3 of the LP seeks to limit residential development in rural locations outside of defined settlements, except where it satisfies one of seven criteria. The appeal proposal has been submitted against number six – that it is of exceptional quality and innovative design satisfying the design criteria set out in the Framework and achieves sustainable standards of design and construction.

6. Policy RA3 of the LP is broadly consistent with the Framework in seeking to restrict development in the countryside to recognise its intrinsic character and beauty. The LP policy predates the latest version of the Framework in which paragraph 55 has been amended to be paragraph 84. The Framework seeks to avoid development of isolated homes unless, under (e), the design is of exceptional quality, in that it: i) is truly outstanding, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and ii) would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.
7. The appeal site is at the end of a group of houses in Upper Colwell but outside of the settlement. Given its position next to existing housing the appeal site is not isolated and, therefore, Policy RA3(6) and paragraph 84(e) of the Framework would not strictly apply.
8. Paragraph 139 of the Framework seeks to resist development that is not well designed. Conversely, it also advises, under 139(b), that significant weight should be given to outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings. Paragraph 139(b) of the Framework does not include any locational criteria and can be used to assess schemes in and near settlements. Nevertheless, the proposal would need to also be considered against the other policies in the Framework, as a whole. As the Framework is a material consideration in planning decisions, I can give weight to paragraph 139(b) in determining the appeal.

Whether the proposal is of an outstanding and innovative design, promotes high levels of sustainability, or would help raise standards of design more generally in the area

9. The appeal site comprises rough grass and overgrowth on a steep slope between Chase Road and Ballards Drive. It was previously part of the garden of the neighbouring property. However, it has not been used as garden for some time and it has naturalised into the countryside. It lies adjacent to the built development in Upper Colwell. Views of the site are available from Chase Road, from the public right of way which follows the edge of the site and, to a lesser extent, from Ballards Drive. The proposed new dwelling would be located in the top half of the site, accessed off Chase Road.
10. The dwelling would be formed of two, two-storey, blocks joined by a glazed atrium. The two-storey height would ensure that the dwelling would sit low in the landscape. The part of the building closest to Chase Road would only be viewed as single storey and would, therefore, sit lower in the street scene than the nearest dwelling, Glenwood. Vehicular access would be from Chase Road with a driveway leading to a single storey covered area. The garden, where the domestic paraphernalia would be likely to be kept, is also screened by the building.
11. Changes in material, texture and form would provide articulation to the building. An assessment of the colours of the area has been carried out to influence the material palette and the proposed materials would reflect the surrounding woodland and hillside. The timber to the upper areas of the buildings would be read as a wrapped surface, rather than a wooden box, with sections where the

timber is more solidly applied and areas where it opens up. The timber louvres supplement this design element.

12. Water has also been designed into the scheme which would reflect the presence of the watercourse near the site and provide views of water as part of the development. Full details of the landscaping proposed, including species, has been provided within the evidence and the landscaping would provide new hedges, trees, a wildflower meadow, and the creation of a wetland zone.
13. The design includes large overhangs, deeply recessed glazing, and external sun shading louvres. Although there are large areas of glazing these design features would limit overheating in the summer whilst allowing the lower winter sun into the building and allowing views out of the property over the surrounding landscape. The overhangs would also reduce the light spillage from the building.
14. The proposed dwelling is angular in shape, which goes against the rolling landscape in which it is proposed to sit. Nevertheless, the materials, colour and detailing would ensure that the building picks up on the features and colours of the landscape, even if it would not reflect the form of it. The design details and materials, including their colour, has a clear overriding narrative of being within the landscape.
15. Overall, the building is contemporary in design with large, glazed openings, substantial overhanging flat, green, roofs, and louvres. In my judgement, the design of the building, including the landscaping, albeit including features that have been used in other modern buildings, has merit and there is much to commend it. The appearance would be striking whilst the use of timber cladding and features, local stone, and local coloured render would ensure that the building reflects the local landscape and balances modern design with natural materials. The proposed wildflower meadow would also soften the building and provide ecological benefits within the site. In terms of its architecture and proposed landscaping I find that the appeal proposal is an outstanding and innovative design.
16. The proposed measures to reduce heat and energy demand, including the passive design, use of space heating, on-site electricity generation, ground source heat pumps, photovoltaic and solar thermal panels built into the design, a mechanical ventilation heat recovery system, a battery storage system and Earth Energy (Thermal) Banks, would mean that the dwelling would be highly sustainable in terms of its energy and heat consumption. Albeit not new, not all of the technologies proposed are well-established or well-used, especially when used in combination as is proposed in the appeal scheme.
17. The Council has drawn my attention to a planning application where a similar mix and use of renewable measures were put forward. However, from the evidence before me, that other application was refused and has since been dismissed at appeal. The Inspector considered the renewable technologies were proposed to be used in a unique way, to capture, store and utilise energy for the proposed dwelling, to minimise the need for 'on grid' energy. The Inspector also concluded that scheme was particularly innovative with regard to its use of, amongst other matters, renewable technology.
18. I have no reason to disagree with the findings of the Inspector in that case and the combination of renewable technologies proposed in the appeal before me is

unique and innovative and would add to the outstanding and innovative design of the appeal proposal.

19. It would, therefore, comply with the parts of Policies SD1 and SS7 of the LP which aim for development to utilise physical sustainability measures, on-site renewable energy generation, sustainable construction methods, and mitigate their impact on climate change. It would also be a carbon neutral dwelling and, in that regard, would reflect the Council's aspiration in the declared climate emergency and the support for small scale renewable schemes set out in Policy CRE1 of the NDP.
20. The proposed wild grass roof, stone, the use of quarry dust to colour the render and the timber cladding would be locally sourced, with the appeal indicating that some of the timber would be sourced from the site. The dwelling has also been designed to be adaptable with space available for a lift and the bedrooms and bathrooms could also be adapted if required. Although I cannot control the use of local materials, these matters all add to the sustainability of the overall design.
21. Any well-designed scheme is likely to assist in raising standards of design to some extent by setting an example that others should follow. I have found that the appeal scheme would be a high quality design which would be outstanding and innovative. Consequently, I find that it would help to raise the standard of design more generally in the area.
22. Paragraph 139(b) does not require the proposal to exceed the highest standards in architecture, unlike paragraph 84(e). It needs to be outstanding and innovative. For the above reasons, I find that the proposal before me meets these requirements in its design. Moreover, it would promote high levels of sustainability and would help raise standards of design more generally in the area. The appeal scheme would, therefore, comply with the first part of 139(b).

Whether the proposal would fit in with the overall form and layout of the surroundings

23. The houses on Chase Road are mostly detached dwellings built fronting the road. The property next to the site, Glenwood, is a large, detached, two-storey house set within a large curtilage and set further back from the road than the appeal proposal. Further along Chase Road are two more contemporary style dwellings. In the wider area and the village of Colwell there is a mix of house types, sizes and material finishes and there is also variety in the orientation, position on the plot and levels. The appellant has also drawn my attention to two dwellings which are built of materials of a similar appearance to the appeal proposal.
24. The dwelling would be built close to, and with access off, Chase Road, and in that respect would reflect the layout of most of the houses along the road. While that may be the case, the footprint and massing of the proposed dwelling would appear to be significantly greater than any other dwelling that I saw while I was on my visit, and greater than anything that has been drawn to my attention by the parties. Even though it would be two, two-storey, blocks and would only appear as a single storey building when viewed from Chase Road, the proposal would have a long, narrow, large-scale built form. The separation of the building into two blocks would not sufficiently reduce the massing that results from the size of the footprint.
25. The appellant has drawn my attention to several properties in the area with similar, or greater, building lengths to the appeal proposal. Many of these are single

rectangular buildings. However, changes in roof level, projecting sections and design detailing breaks up the overall appearance of the length. I have no compelling evidence that any of the properties detailed, albeit of a similar, or even greater, length to the appeal proposal, have a similar footprint, and therefore, a similar massing.

26. Even considering the information provided in the Design Statement and the Landscape & Visual Appraisal (LVA), the proposal is not of a size or form that is commensurate with other buildings in the area. Moreover, even if there are other large houses in the area, whilst admittedly being part of the character, these are not representative of the overall form and layout of the surroundings.
27. The proposal would not respect the scale, proportions, and massing of the surrounding development, as required by Policy SD1 of the LP. For these reasons, the proposal would not fit in with the overall form and layout of the surroundings and would, therefore, fail to comply with the second part of paragraph 139(b) of the Framework.

Conclusion on outstanding or innovative design

28. Drawing these matters together the appeal proposal would be an outstanding and innovative design, which promotes high levels of sustainability. It would also be an outstanding and innovative design, which helps raise the standard of design more generally in the area. Nevertheless, the proposal would not fit in with the overall form and layout of the surroundings.
29. Paragraph 139(b) of the Framework supports the principle of new dwellings provided that both limbs of the test in 139(b) are met, and subject to the proposal complying with the rest of the Framework, when taken as a whole. I have found that, the proposal would be truly outstanding and innovative. However, it would not fit in with the overall form and layout of the surroundings and, as a result, the tests in Paragraph 139(b) would not be met.
30. For the above reasons, I find that the development would not meet the policy exception for new dwellings in the countryside as set out in paragraph 139(b) of the Framework. It, therefore, fails to comply with Policy RA3(6) of the LP which limits development outside of settlements except where, amongst other matters, the development is of exceptional quality and innovative design satisfying the design criteria set out in the Framework, and achieves sustainable standards of design and construction.
31. There would be compliance with parts of Policy SD1 of the LP in that the development would contribute to the architectural diversity and character of the area through innovative design and would meet the sustainability aims of this policy. Nevertheless, the proposal would also fail to comply with Policy SD1 in that it would not maintain local distinctiveness, and would not respect the scale, proportions, and massing of the surrounding development.
32. For the same reasons, the proposal would also fail to comply with Policies CD2 and CD8 of the NDP which, amongst other matters, and taken together, seek to ensure that housing schemes respond to the plot size and pattern of development, which is locally characteristic, with particular reference to neighbouring properties, and only supports developments outside the settlement boundaries where they are in accordance with Policy RA3 of the LP.

Effect on National Landscape

33. The site lies within the Malvern Hills National Landscape (the NL) which washes over Upper Colwell. Policy LD1 of the LP seeks to ensure that development proposals conserve and enhance the natural, historic, and scenic beauty of important landscapes and features, including the National Landscapes.
34. Although not referenced in the reasons for refusal I also find Policy SS6 of the LP is relevant. Policy SS6 seeks to conserve and enhance those environmental assets that contribute towards the county's distinctiveness, especially those with specific environmental designations, including the National Landscape.
35. Paragraph 189 of the Framework advises that great weight should be given to conserving and enhancing landscape and scenic beauty in National Landscapes which have the highest status of protection in relation to these issues. It also advises that the scale and extent of development in these areas should be limited.
36. Section 245 of the Levelling Up and Regeneration Act 2023 (the LURA) amended the duty in the Countryside and Rights of Way Act 2000 in relation to National Landscapes to require relevant authorities, in exercising or performing any functions in relation to, or so as to affect, land in a National Landscape to seek to further the purpose of conserving and enhancing the natural beauty of the National Landscape.
37. The LURA has imposed a more rigorous requirement in National Landscapes than that set out in Policies LD1 or SS6. However, there would be overlapping considerations between the requirements of the LURA and the policies, and the policies remain broadly consistent with the thrust of the LURA.
38. The Malvern Hills Areas of Outstanding Natural Beauty Management Plan 2019-2024 (the MP) identifies the special qualities of the NL as, amongst other matters, the contrasts, predominately between the high, narrow, north-south ridge and the pastoral farmland. The variety of landscape types, historic landscapes, native woodlands, distinctive 'villagescapes,' the sense of remoteness and tranquillity, and the open access in many places, are also part of the special qualities that are key components of the natural beauty of the NL.
39. In so far as it is relevant to the appeal, I consider the character of the landscape is, in part, derived from the hills and open countryside around the village. Albeit only a small part of the NL, the appeal site currently makes a locally important, positive, contribution to the character, natural landscape and scenic beauty of the NL, the Malvern Hills National Character Area, and the Principal Wooded Hills Landscape Character Type.
40. The MP acknowledges that development is inevitable and necessary in the NL to maintain economic viability, sustain the population and support those who manage the land. However, the MP notes that care must be taken to minimise the adverse impact on the purposes for which the area has been designated or defined. The MP and the objectives of the NL are not to prevent development but to ensure that any development contributes positively.
41. The submitted LVA, amongst other matters, provides a significant amount of detail on the context and history of the area, the landscape setting, the character of Colwell, and the wider area in order to provide landscape character baseline

studies. It also details the evolution of the design, the ecological and planting benefits of the proposal, the design philosophy, and the sustainability of the proposal with the aim of showing that the development is landscape and ecology led.

42. For the purpose of considering the effect of the development on the NL, the LVA also identifies the Zone of Theoretical Visibility, key viewpoints, provides the authors opinion on the effect on each of the viewpoints, and a summary of the effect of the development on the NL and the wider landscape. Thirteen viewpoints were identified which are either specific points from where the development would be visible or are representative views. The location, character, existing views, and view with the development has been detailed for each.
43. The LVA notes that the proposed dwelling would be visible from Chase Road, albeit this would be restricted by the existing trees. Nevertheless, there would be views and these would include a significant view of the vehicular access, bridge, and car port. The LVA also recognises that the appeal proposal would be visible from the Public Right of Way (PROW) adjacent to the site. There are also limited views of the upper part of the appeal site from other areas of Colwell village, including from other residential properties.
44. Of the thirteen viewpoints assessed, the LVA Addendum notes that the development would have a neutral effect on five, a minor negative effect on three to four, a moderate negative effect on three (viewpoints 2, 3 and 10) and a moderate to major negative effect on one (viewpoint 4). The appellant seeks to argue that the outstanding and innovative design is part of the mitigation of the visual effect. Although I agree that the proposal would be outstanding and innovative in its design, the effects of the development on views and visual amenity have been assessed with the proposed mitigation measures in place, including the design. Even with the positive benefits of the design of the dwelling the development would still result in negative effects on a number of viewpoints.
45. Albeit of materials that intend to blend the house into the landscape, a significant proportion of the dwelling would be set forward of the slope of the hill. Moreover, it has been designed to be seen rather than hidden from views. The dwelling would be prominent in views from the well-used PROW which runs along one side of the site and, to a lesser extent, from Chase Road and Ballards Drive. These views would be appreciated by local residents and by visitors due to the proximity to the PROW and being within the Malvern Hills.
46. The proposal would result in a large dwelling on a site which is currently devoid of development. It would change the site from part of the unspoiled natural environment within the NL to built development which would not be mitigated or compensated for. Due to the size, massing, and scale of the proposal it would appear as an intrusive and alien feature in views of an otherwise undeveloped part of the hillside. The adverse effect on the views, especially from viewpoints 2, 3, 4 and 10, would, in my judgement, be significant and would not be outweighed by the benefits of the design of the house.
47. That the appeal site is not the large field it would have been historically, before the construction of Ballards Drive, does not weigh in favour of the proposal. Furthermore, even though the proposed landscaping would help to screen the development as viewed from the surrounding area, and would deliver biodiversity

enhancements, this is only proposed to mitigate the effect of introducing built development onto an existing open area. Moreover, it is not intended to completely screen views of the dwelling. Although the scheme would deliver benefits in terms of high quality architecture, the harm that it would cause to the landscape due to its scale and massing is not necessary to secure those benefits.

48. The visual harm of the proposed dwelling, due to its size, massing, and scale would, in my judgement, not conserve or enhance the landscape and scenic beauty in the NL, neither would it further the purpose of conserving and enhancing the natural beauty of the NL. The site does not currently detract from the NL, albeit overgrown, and the proposal, although it would result in the management of the site, would be harmful development in the NL. Even if the development would enhance the ecological value of the site, and even though the site is only a small part of the NL, the development would not enhance the visual value.
49. Moreover, even if I were to accept the conclusions of the LVA, that the development would have a neutral level of effect on the NL, this would fall short of the requirement in the LURA for development to further the purpose of conserving and enhancing the natural beauty of the National Landscape. The landscape and ecological enhancements to the site and the potential that these would contribute towards biodiversity in the NL would not outweigh the visual harm that would arise from the development.
50. For the above reasons, I find that the scheme would have an adverse effect on the Malvern Hills National Landscape. Consequently, the proposal would be contrary to Policies LD1 and SS6 of the LP.
51. Moreover, the proposal would fail to comply with the advice and policies set out within the MP which seek to conserve, enhance and celebrate the quality of the NL, ensure that the distinctive character and natural beauty of the NL is fully reflected in development (BD01) and protects or enhances key views and landscape character (BDP4).
52. For the same reasons, the proposal would conflict with paragraph 189 of the Framework, which states that great weight should be given to conserving and enhancing landscape and scenic beauty in National Landscapes, which have the highest status of protection in relation to these issues. The development would also conflict with the advice in the Framework which seeks to ensure that development is sympathetic to the landscape setting, contributes to and enhances the natural and local environment by, amongst other matters, protecting and enhancing valued landscapes and recognises the intrinsic character and beauty of the countryside.
53. The proposal would also not further the purpose of conserving or enhancing the natural beauty of the National Landscape as required by the LURA.

Other Matters and planning balance

54. The third reason for refusal on the Council's decision notice relates to the failure of the proposal to meet a local housing need, as defined in paragraph 82 of the Framework. The Council have confirmed that it is no longer seeking to defend this reason for refusal as the appeal proposal was not submitted under the exception of meeting a local housing need. I have no reason to disagree with this.

55. The Malvern Hills Site of Special Scientific Interest (SSSI) lies on the opposite side of Chase Road from the appeal site. Concerns have been raised that the appeal proposal would result in additional harm to the SSSI, especially from vehicles overrunning the verges along Chase Road. I acknowledge this concern. However, the appeal proposal would provide sufficient parking and turning within the site to accommodate the future residential vehicles. A construction management plan could be secured to ensure that construction vehicles are also accommodated within the site. I, therefore, have no compelling evidence that the appeal proposal would result in harm to the SSSI.
56. Although not part of the description of development the appellant has advised that the proposal is a self-build dwelling. The Housing and Planning Act 2016 sets out that local planning authorities have a duty to grant planning permission in respect of enough serviced plots of land to meet the demand for self-build and custom housebuilding in the authority's area arising in each base period.
57. The appellant refers to the Council's Monitoring Report (August 2023), the Housing Market Area Needs Assessment (July 2021), the Buildstore Custom Build Register and the Self and Custom Housebuilding Study. These documents indicate that there is a higher level of demand than is noted in the Council's self-build register and a shortfall in the number of plots given permission.
58. While there is an emerging policy which refers to self and custom build homes, given the plan is in the early stages of its preparation, there is not adequate certainty of the final form that policy may take, nor evidence of how far the policy is away from adoption. As such I afford it only very limited weight.
59. The benefit of providing one self-build unit would be moderate in the context of the shortfall. The appeal before me is materially different to the appeal at Yorkletts¹ which provided for nine self-build units and the benefit was, therefore, given greater weight in the balance. Furthermore, I have no means, such as a signed legal agreement, to secure the property as self-build and without this, I am not able to give this benefit significant weight in the decision.
60. Taking account of the report submitted by the appellant relating to the Economic Footprint of House Building in England and Wales, the development would also provide social and economic benefits both during and post construction and would be close to services and facilities in the settlement so as to ensure that the future occupants of the dwelling would not rely wholly on the private car, as required by Policy SS4 of the LP. That there are no refusal reasons relating to living conditions of existing or proposed occupiers, or highway, biodiversity, or drainage matters are neutral factors.
61. The appellant has sought to argue that the LP is out of date by reason of its age. However, the age of the policy does not mean that it is automatically out of date. The LP Policies relating to the NL do not go as far as the Framework and the LURA and, in this regard, there is some inconsistency. Nevertheless, the LP is not in conflict with the Framework or LURA and the most relevant policies within the LP for the consideration of the appeal are broadly consistent with the Framework. As such I have given the conflict with these policies significant weight in this appeal. Consequently, the proposed development would conflict with the development plans as a whole.

¹ APP/J2210/W/23/3323592

62. The Council has also recently confirmed that it is unable to demonstrate a five-year supply of deliverable housing land, following the changes to the method of calculating housing supply in the Framework. Its latest information indicates a supply of only 3.06 years, which is a reasonably substantial shortfall.
63. The proposal would accord with the Framework's aim to significantly boost the supply of housing and support the rural economy. However, being for one property these benefits are limited. I, therefore, give significant weight to the limited benefits attributed to one dwelling. The high quality of the design is a positive benefit. However, there would be substantial adverse environmental effects, contrary to the elements of the Framework referred to above, in terms of the proposed dwelling not fitting in with the overall form and layout of the surroundings and the effect on the NL. These are afforded significant weight.
64. Moreover, paragraph 14 of the Framework advises that in situations where the presumption (at paragraph 11d) applies to applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits. The appeal conflicts with the NDP which is less than five years old and contains policies and allocations to meet its identified need. Consequently, I also give substantial weight to the conflict with the NDP.
65. Notwithstanding the benefits, as set out at footnote 7, if the policies in the Framework relating to National Landscapes provide a strong reason for refusing the development proposed, then the 'tilted balance' is disengaged. In this case, I have found that the harm to the National Landscape would be significant, and this would not be outweighed by the public benefits. This provides a strong reason for refusing the proposal. Consequently, the presumption in favour of sustainable development as set out in paragraph 11d) of the Framework does not apply.

Conclusion

66. There are no material considerations to indicate that the decision should be made otherwise than in accordance with the development plan. For the reasons set out above, I therefore conclude that the appeal should be dismissed.

K Townsend

INSPECTOR