



Appeal Decision

Site visit made on 20 February 2025

by **B Phillips BSc MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 30 April 2025

Appeal Ref: APP/W1850/W/24/3354185

Land at Harp Field, Harewood End, Herefordshire HR2 8JT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr J Honey against the decision of Herefordshire Council.
 - The application Ref is 233706.
 - The development proposed is the erection of two detached dwellings, construction of new vehicular access and associated works.
-

Decision

1. The appeal is allowed and outline planning permission is granted for the erection of two detached dwellings, construction of new vehicular access and associated works at Land at Harp Field, Harewood End, Herefordshire HR2 8JT in accordance with the terms of the application, Ref 233706, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

2. The application is in outline with access and layout to be considered to be considered as a detailed matter, with landscaping, appearance and scale reserved for future consideration.
3. The Government published in December 2024 a revised version of the National Planning Policy Framework (the Framework). Both main parties have had opportunity to comment on the matter and I have taken into account any representations made.
4. A drawing providing the root protection areas (RPA) of the two trees near the southern boundary of the site has been submitted with the appeal. This does not alter the development in any way, and all parties have had opportunity to comment on it. As such, natural justice is not prejudiced by my consideration of this plan.
5. Similarly, as revised site plan has also been submitted (dated July 2024), which reduces the opening in the hedge to link the footway to a new pavement from 1.8m to 1.2m. This alteration is minor, and again, all parties have had opportunity to comment on it. As such, natural justice is again not prejudiced by my consideration of this plan.
6. A third reason for refusal related to highway safety. Given the lack of objection received from National Highways, the Council no longer contests this issue.

Main Issues

7. As such, 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
- the effect of the proposal on the character and appearance of the area.

Location

8. Harewood End is a predominantly linear settlement straddling the A49. It has no defined settlement boundary. Policy RA3 of the Herefordshire Local Plan Core Strategy 2011–2015 (CS) sets out that the circumstances where development within rural locations outside of settlements would be permissible, none of which apply in this case. However, CS Policy RA2 seeks to secure sustainable development in rural areas by directing housing to locations '*within or adjacent to identified settlements*'. Harewood End is identified as 'other settlements for proportionate housing growth' under figure 4.15.
9. Paragraph 4.8.16 of the supporting text to CS Policy RA2 makes reference to '*development will be located within or adjacent to the main built-up area(s) of the settlement*', suggesting that separate main built-up areas of a settlement are possible. As such, whilst there is a visual gap between the 2 identifiable built up areas of Harewood End, it would not preclude the northern cluster of built form as being part of the settlement or a main built up area. In the context of Harewood End, the number of dwellings and built form in this northern cluster represents a 'main built up area.'
10. A boundary of the appeal site adjoins residential property in this northern cluster, and there is a dwelling on the opposite side of the highway. The space between built form and the boundary treatment would be similar to that opposite and would not be so significant as to result in an incongruous visual break. As such, whilst currently open farm land, the appeal site is adjacent to a main built up area of the settlement. The boundary treatment of the site and lack of existing road access directly from the field onto the A49 does not prevent this being the case.
11. Whilst the facilities within Harewood End are limited to a public house, 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. There is an easily accessible bus stop in close proximity to the appeal site that would provide future occupiers with a realistic choice of transport options. The intended future occupiers of the new dwellings would not necessarily be likely to have a high reliance on a private motor vehicle to access day to day services. Notwithstanding this, as set out above, the CS specifically identifies Harewood End as a settlement where housing is appropriate.
12. In the context of the settlement of Harewood End, the provision of 2 dwellings is proportionate.
13. 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 RA2 and RA3 and the Framework.

Character and appearance

14. The appeal site currently consists of an open field free from development. The wider surroundings are characterised by sporadic tree cover and roadside hedgerow and landscaping. A small number of trees are on and surrounding the appeal site and, in addition to the roadside hedgerow, this contributes positively to the existing verdant open character befitting of the transition from the wider countryside into the settlement.
15. The nearby dwellings are generally set back from the road and have a separation gap between them that provides a spacious, open character. The Herefordshire Landscape Character Assessment identifies the site as being part of the Rolling Brownstone Plateau Farmlands Landscape Character Type (LCT). This is described as an area rural in character with scattered small villages and substantial farmsteads. The document identifies that the strategy for this LCT includes conserving the rural character of the landscape.
16. Whilst built form would be introduced inevitably altering its existing character, it would be seen in the context of the adjoining settlement. The two dwellings would be sited a similar set back from the highway to the neighbouring properties and would maintain a characteristic separation gap.
17. In addition to its minor scale, it would not therefore incongruously protrude into the surrounding countryside or harmfully erode the wider surrounding spacious rural character.
18. Given the siting of the access and its visibility splay, two trees would be removed, a beech and an ash tree. I observed that the ash tree is minor in scale, and its contribution to the wider character and appearance is limited. The beech tree is however a substantial tree, prominently sited adjacent to and overhanging the highway.
19. The Council accept that the appellant has been requested by National Highways to fell this tree adjacent to the highway, in the interests of highway safety. Appropriate landscaping, secured at reserved matters stage, including the replacement of these two lost trees and additional trees and planting would ensure that the verdant character of the site and surroundings is maintained.
20. The submitted RPA drawing illustrates that the proposed layout and access would not extend into the RPA of the trees (T1 and T2) along the southern boundary and would not therefore cause undue risk to their long term retention. There would therefore be no harm in this respect to the character and appearance of the surroundings.
21. Whilst some roadside hedgerow would be removed, this would be limited to what is necessary for the new access and visibility splays, in addition to the footway opening. The proposal would also entail the planting of new hedges up to and around the new access radii extending behind and close to the original hedgerow. Whilst not immediately adjacent to the highway, this would limit the visual impact of the access and would retain the positive contribution of hedgerow to the verdant surroundings.
22. The proposal would not therefore harm the character and appearance of the area, and the rural character of the LCT would be maintained. There is therefore no

conflict with CS Policy LD1 which requires that development proposals should conserve and enhance the natural, historic and scenic beauty of important landscapes and features.

Other Matters

23. 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, (The Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019' (the 'Habitats Regulations')) as being of international importance for its aquatic flora and fauna.
24. The River Wye has a range of nutrient conditions and aquatic habitats and generally good water quality for fish species. The appeal site is downstream of the River Lugg, which drains into the River Wye catchment. The River Lugg part of the SAC is exceeding the phosphate limits set for its favourable condition.
25. The proposed development of two 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.
26. 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. 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.
27. 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.
28. The submitted drainage assessment (DA)¹ sets out that no main sewer connection is achievable at this location, and that property specific package treatment plants will be used discharging to individual soakaway drainage fields. The testing report by confirms that percolation and ground water is suitable to support the proposed drainage fields, and a proposed foul water system would be General Binding Rules compliant. The testing report also confirms that a Building Research Establishment compliant onsite infiltration system can be used to manage any additional surface water flows created by the proposed development.
29. As such, with foul and surface water managed through drainage fields and local infiltration there are no identified additional nutrient pathways into the River Lugg and River Wye SAC from the proposed development.
30. Further details of the specific foul and surface water schemes are necessary; but the DA is clear that infiltration is feasible at the site. A suitable condition would

¹ By Wye Environmental Products And Services Ltd, 27 October 2022

ensure that appropriate systems are secured prior to the occupation of the approved dwellings. These measures will mitigate any effect on the SAC, in accordance with the hierarchy stated under CS Policies SD3 and SD4.

31. 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. The Council does not dispute the assertion of the appellant that the drainage system would meet the criteria set out by NE. I have no reason to reach a different conclusion. The submitted details and condition would secure the mitigation set out above and ensure that the proposed development will create no significant nutrient pathways into the River Wye that may make the current situation worse or hinder any recovery.
32. Based on the forgoing, I am able to ascertain, as the competent authority undertaking the AA that whilst the integrity of the SAC could be affected by the development, this could be overcome with the proposed mitigation.
33. The scheme would therefore comply with the Regulations and CS Policies SD3 and SD4.

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 for the reserved matters submissions, I have imposed a condition requiring the development to be carried out in accordance with the approved plans as this provides certainty.
36. Given that the appeal site is located adjacent to the main highway, a construction management plan (CMP) is necessary in order to preserve highway safety during any construction period. Conditions requiring details of surface water and foul water/sewerage are necessary, as set out above, in order to ensure that the development mitigates any effect on the SAC.
37. These pre-commencement conditions are so as they relate to and/or affect the early part of the development.
38. Conditions securing the submission of appropriate cycle, bin storage and car parking details are necessary in order for future residents to have access to these facilities.
39. A condition setting out suitable construction hours is necessary to protect the living conditions of nearby residents.
40. On wider sustainability requirements, given the sensitive location of the proposal in this regard set out above, 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. A condition securing appropriate details of two bird nesting features and one bat roosting feature on each dwelling is necessary in the interest of ecology. Similarly, given the rural edge of settlement

location, a condition to secure appropriate details of external lighting is necessary, in the interest of the visual effect of the development and ecology.

41. Given the requirement for a CMP to be submitted and approved, in addition to drainage details, further conditions relating to possible effect on highways infrastructure are not necessary. The proposal includes one vehicular access point off the A39, and a condition restricting any other access is also not necessary.
42. Conditions relating to landscaping and design, including materials, boundary treatment and levels, are not necessary as they relate to the reserved matters.
43. Paragraph 55 of the National Planning Policy Framework (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 advises that conditions restricting the future use of permitted development rights should only be used in exceptional circumstances.
44. The Council have not provided this clear justification in this instance and as such the suggested condition removing permitted development rights does not meet the test of necessity.

Conclusion

54. For the reasons above, the appeal is allowed.

B Phillips

INSPECTOR

Schedule of Conditions

1. Details of the landscaping, appearance and scale, ("the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
2. Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission
3. The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.
4. The development hereby permitted shall be carried out in accordance with drawing no: Site location plan, 906-02d and 910-02.
5. No development shall take place until a Construction Management Plan has been submitted to and approved in writing by the local planning authority. The approved Construction Management Plan shall be adhered to throughout the construction period for the development.
6. No development shall take place until 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, has been submitted to and approved in writing by the local planning authority. The submitted details shall:
 - i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - ii) include a timetable for its implementation; and,
 - iii) 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.

7. No dwelling shall be occupied until works for the disposal of foul water have been provided on the site to serve the development hereby permitted, in accordance with details that have first been submitted to and approved in writing by the local planning authority. The approved foul water scheme shall be managed and maintained as approved for the lifetime of the development it supports.
8. No dwelling shall be occupied until the visibility splays shown on the approved plans are provided, with no obstruction to visibility at or above a height of 600mm above the nearside carriageway level. The visibility splays shall always be maintained free of obstruction thereafter.

9. No dwelling shall be occupied until the means of access for vehicles has been constructed in accordance with the approved plans. The access shall be retained thereafter.
10. No dwelling shall be occupied until space has been laid out within the site for 2 cars to be parked for each dwelling and for vehicles to turn so that they may enter and leave the site in forward gear and that space shall thereafter be kept available at all times for those purposes.
11. No dwelling shall be occupied until space has been laid out within the site for bicycles to be stored for each dwelling and that space shall thereafter be kept available for the storage of bicycles.
12. The development hereby permitted shall not be occupied until the Building Regulations optional requirement of a water consumption rate of no more than 110 litres per person per day has been complied with.
13. No dwelling shall be occupied until details of two bird nesting boxes (or similar features) and one Bat roosting feature (boxes or similar feature) on each dwelling or on other land under the applicant's control, has been submitted to and agreed in writing by the local planning authority. These features shall be provided in accordance with the approved details and shall be maintained thereafter as approved.
14. No external light fixture or fitting will be installed within the application site unless in accordance with details of existing and proposed new lighting that has been submitted to and approved by the local planning authority.
15. Demolition or construction works shall take place only between the hours of 7:00am to 6:00pm on Mondays to Fridays; 8:00am to 1:00pm on Saturdays, and shall not take place at any time on Sundays or on Bank or Public Holidays.

End of schedule