
Appeal Decision

Site visit made on 28 May 2025

by Tamsin Law BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th July 2025

Appeal Ref: APP/W1850/W/25/3359632

The Stables, Weggs Pony Club, Ailey Lane, Kinnersley, Herefordshire HR3 6NY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for [outline] planning permission
 - The appeal is made by Mrs Deborah Mitchell (Weggs Stud) against Herefordshire Council.
 - The application Ref is P242575/F.
 - The development proposed is the change of use of a building into holiday let.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal follows the Council's failure to determine the application within the prescribed period. However, the Council has indicated in its grounds of appeal, that had it been in a position to determine the application, it would have refused planning permission.

Main Issue

3. The main issue is the effect of the proposed development on the River Wye Special Area of Conservation (SAC).

Reasons

4. The site is located within the River Wye SACs impact risk zone. Given the lack of public sewerage system serving the site, the unmitigated discharge of private sewerage within the SAC's impact risk zone could provide a pathway to generate likely significant effects on water quality.
5. The SAC covers an extensive part of the River Wye and its tributaries. Its conservation objectives relate to the maintenance or restoration of the wide range of species and their natural habitats for which the SAC has been designated, to ensure the site's integrity is maintained. One concern is that the nutrient regime of the SAC, and in particular its phosphate levels, should be protected, as this can affect the range of species and the habitats that can survive in these rivers. The conservation status of the River Wye has been assessed as being 'unfavourable declining' by Natural England.
6. The proposed development involves the conversion of an existing building, formerly a stable and currently being used as storage, into a single holiday let. In order to facilitate the development a septic tank would be required. No plans

detailing the proposed location of the septic tank or its associated drainage field has been provided.

7. In this case, the proposed development is located within the 1.8km of the River Wye. During my site visit I also noted that other watercourses were located closer to the appeal site. In the absence of information relating to the siting of the septic tank or its drainage field, I cannot be certain that foul water flows would not enter the River Wye, or any tributaries, nor if its siting would mitigate this. I consider that the effect of the proposed development, is such that it is likely to have significant effects on the SAC.
8. The evidence indicates that there is a likelihood of additional foul water flows into the SAC, which has the potential to affect the integrity of the SAC. The Habitats Regulations require me to consider whether there are any alternative solutions. However, no mitigation has been put forward by the Council or the appellant. No other solutions have been put to me and I have found none myself.
9. As such, in this case I cannot conclude that the proposal would not have an adverse effect on the integrity of the SAC as no appropriate mitigation has been proposed that would mitigate the impacts of additional foul water.
10. Consequently, having regard to the Habitat Regulations, permission must not be granted. Therefore, the proposed development would result in unjustified harm to the integrity of the SAC contrary to paragraphs 193 and 194 of the National Planning Policy Framework which together seek to ensure that development does not result in the loss or deterioration of irreplaceable habitats.

Conclusion

11. For the reasons given above the appeal should be dismissed.

Tamsin Law

INSPECTOR