



Appeal Decision

by I Stevens BA (Hons) MCD MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 16/02/2023

Appeal reference: CAS-02108-X4B4D6

Site address: Brookside shed, Llancayo Road, Gwehelog, Monmouthshire, NP15 1JH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr S Nowogrodski against the decision of Monmouthshire County Council.
 - The application Ref DM/2021/01801, dated 1 November 2021, was refused by notice dated 4 July 2022.
 - The development proposed is replacement of existing storage buildings with an exemplar Eco single dwelling.
 - A site visit was made by the Inspector on 9 January 2023.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Appeal Form indicates that the appeal site is in a green belt/green wedge. The appellants and Council have not referred to it elsewhere in their submissions and I have seen no indication from the evidence that the appeal site is in a green belt/green wedge.

Main Issues

3. The main issue is whether the proposal would comply with national and local planning policies relating to development in the countryside.

Reasons

4. The appeal site comprises a level parcel of land adjacent to a local highway. It forms part of a larger field within the appellants' ownership that rises to the north up to dense vegetation. A row of planted trees has been placed along the approximate line of the northern boundary to delineate the appeal site from the wider field. Two buildings are on the appeal site, of metal construction with green coloured walls and corrugated sheet roofs. A storage container is located adjacent to the larger building. The site is interspersed with trees and vegetation, while a low-level hedgerow defines the boundary

around to the access point, which is provided by gates from the eastern end of the site. A public footpath runs along the northern boundary of the appeal site from near the access drive. A stream runs along part of the southern boundary of the site and under the highway. The immediate area is characterised by densely vegetated hillsides, with sporadic dwellings and buildings mostly along the highway.

5. In planning policy terms, the site lies in open countryside, outside of any settlement development boundary as defined in the Monmouthshire Local Development Plan (LDP), adopted February 2014. Policy S1 of the LDP states that outside of the defined settlements open countryside policies will apply where planning permission will only be allowed for certain types of residential development. These include acceptable conversions of rural buildings, sub-divisions of existing dwellings, and dwellings necessary for agricultural, forestry or other appropriate rural enterprises, in accordance with national planning policy and guidance. The appeal proposal seeks to demolish the existing structures and build a detached dwelling and annexe in a similar footprint position on the site. No evidence has been provided against any of the criteria listed within Policy S1. The proposal therefore fails to comply with Policy S1.
6. However, the appellant has indicated that the proposed dwelling has been designed closely to the requirements of One Planet Developments (OPD). Planning Policy Wales (PPW), Edition 11, February 2021, states that OPD is development that through its low impact either enhances or does not significantly diminish environmental quality. It adds that OPD located in the open countryside should provide for the minimum needs of the inhabitants in terms of income, food, energy, and waste assimilation over a period of no more than five years from the commencement of work on site, and this should be evidenced by a management plan produced by a competent person(s).
7. Government advice in Technical Advice Note (TAN) 6: Planning for Sustainable Rural Communities, July 2010, states that planning applications for OPD located in the open countryside need to be supported by robust evidence. The guidance sets out what should be included in the management plan. A separate OPD Practice Guidance document, October 2012, has been prepared to advise on such developments in the open countryside. Overall, the advice documents are detailed in terms of their requirements for OPD in the open countryside.
8. The appellant has indicated that the dwelling would be an exemplary eco-home with sustainable design features that minimise energy use. While the appellant has referred to several sustainability features, the level of detail is insufficient to allow for full assessment against national policy and guidance. The appellant states they will show how within five years the appeal site can fulfil 65% of their basis needs, however, this evidence has not been provided. The appellant's statement that they will use only their global fair share of resources, equivalent to six acres of land, has not been substantiated. The low-energy and sustainable design features of the proposed dwelling are noted. However, it is clear from the policy and guidance that such measures need to be linked with a comprehensive and robust management plan for the development, which would be either tied to a planning condition or legal agreement.
9. PPW adds that where the OPD cannot be demonstrated in line with the policy, proposals should be considered against policies which seek to control development in the countryside. I have already concluded that the proposal fails against local planning policy regarding development in the countryside. It also follows that the proposal fails against national policies. While the appellant intends to develop a highly sustainable dwelling that demonstrates self-sufficiency in terms of their income, food, and energy use, this is subject to providing the necessary evidence and justification to allow the development which would be an exception to strict national and development plan policies on

housebuilding in the open countryside. Indeed, PPW states that new building in the open countryside away from settlements must continue to be strictly controlled, and the fact that a single house on a particular site would be unobtrusive is not, by itself, a good argument in favour of permission; such permissions could be granted too often, to the overall detriment of the character of an area. In the absence of comprehensive evidence, the proposal would therefore be an unjustified new dwelling in the open countryside, contrary to LDP Policy S1, PPW and advice in TAN 6.

Other Matters

10. In its second refusal reason, the Council stated that no affordable housing contribution has been secured, as sought by Policy S4 of the LDP. The policy sets out locations and thresholds where it is expected that affordable housing contributions would be made. The appeal proposal, as a new dwelling in the open countryside and exception to development plan policy, does not appear to fall within the development locations listed in Policy S4 and where the policy thresholds apply. Nevertheless, the appellant is agreeable to the principle of providing for affordable housing albeit there is no formal agreement in place to secure this provision. Given my findings on the main issue, I have not addressed this matter any further.
11. In its third refusal reason, the Council indicates that the appeal site is within the catchment of the River Usk Special Area of Conservation (SAC), protected under the Conservation of Habitats and Species Regulations 2017, as amended (the 'Habitats Regulations'). Natural Resources Wales has set new phosphate standards for the riverine SACs following the revised Common Standards Monitoring guidance updated in 2016 by the Joint Nature Conservation Committee. The evidence indicated a widespread or severe failure to meet SAC phosphate targets in the Usk. The statement added that any proposed development that might increase the amount of phosphate (or phosphorus) within a river SAC catchment could lead to damaging effects to the SAC.
12. The nature of the proposed development has the potential to increase phosphate levels in the SAC, and a significant effect on the SAC cannot be ruled out. Consequently, the decision maker as the competent authority is required to carry out an appropriate assessment to determine whether they are likely to have a significant effect on the SAC. As the decision maker in this appeal, I have considered the evidence provided by the appellant. However, there is little detailed information in terms of the potential new package treatment plant, or the proposed woodland area as a form of mitigation. Neither is it clear how several of the figures used in the phosphorous budget calculator have been estimated. I therefore have insufficient evidence before me to carry out a screening under the Habitats Regulations in respect of the levels of phosphate produced from the development. As I am dismissing the appeal for other reasons, I have not sought the views of parties to inform a screening. Nevertheless, even if the development were acceptable in terms of its effect on the River Usk SAC, this would not outweigh my conclusions on other grounds.
13. The appellant has drawn attention to other benefits of the proposal, including its contribution towards biodiversity enhancement. However, these benefits would not outweigh the significant conflict with local and national planning policy as identified above.

Conclusion

14. For the reasons given above I conclude that the appeal should be dismissed.
15. In reaching my decision, I have taken into account the requirements of sections 3 and 5 of the Well-Being of Future Generations (Wales) Act 2015. I consider that this decision is

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in accordance with the Act's sustainable development principle through its contribution towards one or more of the Welsh Ministers' well-being objectives.

I Stevens

INSPECTOR