

Herefordshire Council

STATEMENT OF CASE

Town and Country Planning 1990

**Mrs Natalie Richards against non-determination planning application for the
change of use of land to allow extension to rear of property.
Retrospective permission also requested for new septic tank with the
Boundary at Buzzards View, Shucknall Hill, Hereford, HR1 3SL**

Appeal number: APP/W1850/W/24/3354273



**Herefordshire Council Statement of case by:
Mr Joshua Evans**

**Appeal by:
Mrs Natalie Richards**

**Appeal number:
APP/W1850/W/24/3354273**

1. Introduction

- 1.1 This statement is in response to an appeal by Mrs Natalie Richards against Herefordshire Council for non-determination of a Full Planning Application that was submitted on the 8 April 2024.

2. Site Description and Proposal

- 2.1 The appeal site concerns a detached 1.5-storey property situated to the northwest of Shucknall, approximately 8 kilometres from Hereford City. It occupies an elevated position on the northern side of a private road connecting to the U72401. The site is within Flood Zone 1, with no identified surface water flooding. The topography rises steeply to the northeast and is designated as a special wildlife site (Woodland on Shucknall SWS-SO54-009). The dwelling was originally approved under Planning Consent P153355/F, granted on December 22, 2015, with conditions subsequently discharged under P190172/XA2.
- 2.2 This appeal proposal concerns a two-storey rear extension with a mono-pitched roof that slopes downward toward the rear. The extension would have a footprint of 60 square metres (6 metres in length and 10 metres in width) and a maximum ridge height of 5.2 metres. The rear elevation of the extension includes two Juliet balconies and extensive fenestration, which is also proposed at ground floor level on the western elevation and at first floor level on the eastern elevation. The appeal also seeks permission for the change of the use of the land to the rear of approximately 683 square metres with 202 square metres of this land use change falling within a Special Wildlife Site. Additionally, the appeal seeks retrospective permission for the installation of a septic tank to serve the property.

3. Site History

Planning Application	Description	Recommendation
P240657/F	Change of use of land to allow extension to rear of property. Retrospective permission also requested for new septic tank with the boundary.	Subject of Appeal
P153355/F	Proposed single storey dwelling. (For DOC 3 & 4 see 190172)	Approved with conditions
P202697/F	Proposed detached garage	Approved with conditions

4. Representations

Area Highway Engineer- Received 22 April 2024

- 4.1 The local highways authority has considered the application and has the following comments.

The proposed change of use of the land will have no impact on the local highways network, access to the development is as existing and the parking for three vehicles on site is acceptable for the 4 bedrooms proposed with the extended accommodation.

Natural Environment Officer (Ecology)- 03 May 2024

- 4.2 The application site lies within the hydrological catchment of the River Lugg SSSI, 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.
- 4.3 At present the levels of phosphates in the River Lugg exceed the water quality objectives and it is therefore in unfavourable condition. Where a European designated site is considered to be 'failing' its conservation objectives there is limited scope for the approval of development which may have additional damaging effects. The competent authority (in this case the Local Planning Authority) is required to consider all potential effects (either alone or in combination with other development) of the proposal upon the European site through the Habitat Regulations Assessment process. The competent authority (in this case the Local Planning Authority) is required to consider all potential effects (either alone or in combination with other development) of the proposal upon the European site through the Habitat Regulations Assessment process.
- 4.4 The HRA process must be based on a demonstration of legal and scientific and be undertaken with a 'precautionary' approach.
- 4.5 This application is for the retrospective installation of Package Treatment Plant within the red line boundary. The proposal moves the foul waste from "Buzzards View" from the shared septic tank with "Dingly Dell" as per Planning Application P153355/F. The shared septic tank, a Klargestor 4600 litre Alpha, has a phosphate output of 11.6mg/l. The new PTP, an Ensign 6pe Gravity, has a phosphate output of 5.7mg/l. Therefore, it is concluded that there is no effect pathway and there is a betterment in terms of phosphate output. Providing the PTP is installed in line with General Binding Rules and meets Building Regulations then Ecology can support the new PTP from HRA point of view.
- 4.6 A Preliminary Ecological Appraisal and Preliminary Roost Assessment written by Arbtech dated February 2024 has been submitted with the planning application. The report states there are no notable habitats onsite, however, there is priority deciduous woodland 15m to the west of the site. It is concluded there will be no impacts to any notable habitats but due to the close proximity to the priority habitat a Construction Environmental Management Plan (CEMP) will be required to minimise the possibility of damage to the woodland. It is noted there are no suitable habitats on site for reptiles and amphibians and no impacts are anticipated as a result of the proposed extension.

- 4.7 The buildings on site have negligible value for roosting bats although the area is likely used by foraging bats, therefore any external lighting must be low impact. In order to enhance the site for biodiversity bird and bat boxes should be erected.

4.8 CKM - Construction Environmental Management Plan

Before any work, including site clearance or demolition begin or equipment and materials are moved on to site, a Construction Environmental Management Plan (CEMP) including a full Ecological Working Method Statement and a specified 'responsible person', shall be supplied to the local planning authority for written approval. The approved CEMP shall be implemented and remain in place until all work is complete on site and all equipment and spare materials have finally been removed, unless otherwise agreed in writing by the local planning authority.

Reason: To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981, Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework, NERC Act (2006), Herefordshire Local Plan - Core Strategy policies LD1, LD2 and LD3.

4.9 CC1 - Details of external lighting

Details of any external lighting proposed to illuminate the development shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and there shall be no other external illumination of the development.

Reason: To safeguard local amenities and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

4.10 CKR - To obtain Biodiversity Net Gain

Within 3 months of completion of the approved works evidence of the suitably placed installation within the site boundary of at least one (1) bird nesting boxes for a site appropriate range of bird species and one (1) bat roosting features, should be supplied to the local authority; and shall be maintained hereafter as approved unless otherwise agreed in writing by the local planning authority.

Reasons: To ensure Biodiversity Net Gain and species and habitats enhancement having regard to the Wildlife and Countryside Act 1981, Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework, NERC Act (2006), Herefordshire Local Plan - Core Strategy policies LD1, LD2 and LD3.

4.11 Wildlife Protection Informative

The Authority would advise the applicant (and their contractors) that they have a legal Duty of Care as regards wildlife protection. The majority of UK wildlife is subject to some level of legal protection through the Wildlife & Countryside Act (1981 as amended), with enhanced protection for special "protected species" such as all Bat species (roosts whether bats are present or not), Badgers, Great Crested Newts, Otters, Dormice, Crayfish and reptile species that are present and widespread across the County. All nesting birds are legally protected from disturbance at any time of the year. Care should be taken to plan work and at all times of the year undertake the necessary precautionary checks and develop relevant working methods prior to work commencing. If in any doubt it advised that advice from a local professional ecology consultant is obtained.

- 4.12 The development is located in an area that has an intrinsically dark landscape benefitting local amenity and nature conservation interests. There are records of bat roosting within the immediate locality of the proposed development. A condition to ensure that no permanent illumination is installed or operated to protect this darkness is suggested on any permission granted.

Parish Council- 01 June 2024

- 4.13 Following their meeting on the 20th of May, Weston Beggard Parish Council wish to support application number 240657.
- 4.14 No other representations were received following consultation on the application.

5. Assessment

Principle of Development

- 5.1 Policy SS1 of the Herefordshire Local Plan- Core Strategy states that when considering development proposals Herefordshire Council will take a positive approach that reflects the presumption in favour of sustainable development contained within national policy. It will always work proactively to find solutions which mean that proposals can be approved wherever possible and to secure development that improves the social, economic and environmental conditions in Herefordshire. Planning applications that accord with the policies in this Core Strategy (and, where relevant with policies in other Development Plan Documents and Neighbourhood Development Plans) will be approved, unless material considerations indicate otherwise.
- 5.2 Policy SS6 of the Herefordshire Local Plan- Core Strategy states that development proposals should conserve and enhance those environmental assets that contribute towards the county's distinctiveness, in particular its settlement pattern, landscape, biodiversity and heritage assets and especially those with specific environmental designations. In addition, proposals should maintain and improve the effectiveness of those ecosystems essential to the health and wellbeing of the county's residents and its economy. Development proposals should be shaped through an integrated approach to planning the following environmental components from the outset, and based upon sufficient information to determine the effect upon each where they are relevant:
- landscape, townscape and local distinctiveness, especially in Areas of Outstanding Natural Beauty.
 - biodiversity and geodiversity especially Special Areas of Conservation and Sites of Special Scientific Interest.
 - historic environment and heritage assets, especially Scheduled Monuments and Listed Buildings.
 - the network of green infrastructure.
 - Local amenity, including light pollution, air quality and tranquillity; •agricultural and food productivity.
 - Physical resources, including minerals, soils, management of waste, the water environment, renewable energy and energy conservation.
- 5.3 Extensions and alterations to lawful dwellings are generally acceptable, notwithstanding a full assessment of the relevant material planning considerations are assessed below.

Scale, Design and Appearance

- 5.4 Policy LD1 of the Herefordshire Local Plan- Core Strategy states that development proposals should demonstrate that the character of the landscape and townscape has positively influenced the design, scale, nature, and site selection, ensuring the protection and enhancement of settlement settings and designated areas. Conserve and enhance the natural, historic, and scenic beauty of significant landscapes and features, including Areas of Outstanding Natural Beauty, nationally and locally designated parks and gardens, and conservation areas, by protecting the area's character and promoting appropriate uses, design, and management. Incorporate new landscaping schemes and their management to ensure the development blends seamlessly with its surroundings. Preserve and expand tree cover where it contributes to amenity, retaining important trees, providing appropriate replacements for those lost due to development, and planting new trees to support green infrastructure.
- 5.5 Policy SD1 of the Herefordshire Local Plan- Core Strategy states that development proposals should create safe, sustainable, well integrated environments for all members of the community. In conjunction with this, all development proposals should new buildings should be designed to maintain local distinctiveness through incorporating local architectural detailing and materials and respecting scale, height, proportions and massing of surrounding development, while making a positive contribution to the architectural diversity and character of the area including, where appropriate, through innovative design.
- 5.6 Policy WB3 of the Western Beggard Neighbourhood Development Plan states that development proposals should protect the character and tranquillity of the parish and are of a size, scale and massing which is commensurate with their surroundings.
- 5.7 Paragraph 131 of the National Planning Policy Framework states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Being clear about design expectations, and how these will be tested, is essential for achieving this. So too is effective engagement between applicants, communities, local planning authorities and other interests throughout the process.
- 5.8 Paragraph 135 of the National Planning Policy Framework states that Planning policies and decisions should ensure that developments will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development; are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit.
- 5.9 The officer acknowledges the pre-planning advice provided to the applicant, although it is evident that there were no specific elevation or floor plan drawings submitted with this enquiry. However, it is highlighted that during the application

process, further consultation was undertaken with the appellant through which the Local Planning Authority sought to address the concerns regarding bulk and scale.

- 5.10 It is considered that the proposed extension would constitute an incongruous addition to the modest property, appearing excessively dominant in terms of bulk and does not reflect the intrinsic limited scale of the host property. Furthermore, the proposed design fails to demonstrate any reference to the architectural style or character of the host property notably in terms of fenestration or material palette, thereby exacerbating its lack of harmony.
- 5.11 While it is recognised that the dwelling retains permitted development rights, and a limited extension was deemed acceptable, the proposed extension represents a substantial and unsympathetic alteration that conflicts with Policy LD1 and SD1 of the Herefordshire Local Plan – Core Strategy, Policy WB3 of the Western Beggard’s Neighbourhood Development Plan, and Chapter 12 of the National Planning Policy Framework.

Residential Amenity

- 5.12 Policy SD1 stipulates that development must preserve the amenity of both existing and future residents, particularly with regard to issues of overlooking, overshadowing, and overbearing impacts.
- 5.13 It is acknowledged that the proposed development includes additional fenestrations to the side elevations. The proposed fenestrations on the western elevation do not raise any concerns, owing to the positioning of the proposal, its stepped-back design, and the considerable distance between the proposed extension and the neighbouring property, Dingley Dell. Similarly, the two additional fenestrations on the eastern elevation are not anticipated to cause significant harm, considering the stepped-back nature of the design and the topographical features of the site. Consequently, no concerns regarding overlooking arise from the proximity to Rosegarth.
- 5.14 It is accepted that the proposed extension will not adversely affect the neighbouring properties, given its location. Therefore, it is concluded that the proposal is in compliance with the adopted development plan in terms of safeguarding residential amenity.

Habitats Regulations Assessment & Water Resources

- 5.15 Policy SD3 requires that sustainable water management measures be incorporated as an integral component of new development. This is essential to mitigate flood risk, prevent adverse impacts on water quantity, protect and enhance groundwater resources, and provide opportunities to improve biodiversity, health, and recreation. In instances where flooding is identified as a concern, new development should include flood storage compensation measures, or similar strategies, to improve the local flood risk management system. Policy SD4 further stipulates that development should not hinder the achievement of water quality targets for rivers within the county, particularly with regard to wastewater treatment.
- 5.16 The application site is located within the hydrological catchment of the River Lugg SSSI, which is part of the River Wye Special Area of Conservation (SAC). Currently, the phosphate levels in the River Lugg exceed the water quality

objectives, placing it in an unfavourable condition. When a European designated site is deemed to be failing in meeting its conservation objectives, there is limited scope for approving developments that may exacerbate adverse effects. The competent authority, in this case, the Local Planning Authority, is required to assess all potential effects (whether alone or in combination with other developments) on the European site through the Habitats Regulations Assessment process.

- 5.17 The proposal involves transferring the foul waste from "Buzzards View" away from the shared septic tank with "Dingley Dell," as outlined in Planning Application P153355/F. The existing shared septic tank, a Klargestor 4600-litre Alpha unit, has a phosphate output of 11.6 mg/l. In contrast, the proposed package treatment plant, an Ensign 6pe Gravity system, has a phosphate output of 5.7 mg/l. Consequently, it is concluded that no effect pathway exists, and there is an overall improvement in phosphate output. The proposal has been deemed to have no likely significant effects on the River Wye SAC and thus is compliant with Policies SS6, LD1, LD2, SD3 and SD4 of the Herefordshire Local Plan- Core Strategy.

Ecology and Green Infrastructure

- 5.18 Policies LD2 and LD3 of the Core Strategy are relevant in relation to ecological considerations and the impact on trees. These policies stipulate that development proposals should conserve, restore, and enhance the biodiversity and geodiversity assets of the County, while protecting, managing, and planning for the preservation of existing green infrastructure and the delivery of new green spaces.
- 5.19 A Preliminary Ecological Appraisal and Preliminary Roost Assessment, prepared by Arbtech and dated February 2024, has been submitted as part of the planning application. The report indicates that there are no significant habitats on site, although priority deciduous woodland is located 15 metres to the west of the site. It is concluded that the proposed development will not impact any notable habitats. However, due to the proximity to the priority habitat, a Construction Environmental Management Plan (CEMP) will be required to mitigate the risk of damage to the woodland. To enhance biodiversity on site, it is recommended that bird and bat boxes be installed. The Preliminary Ecological Appraisal has assessed the impacts upon the special wildlife site and concludes there would be no adverse harm. The Council's Ecologist has agreed with these findings and recommended conditions.

Renewable Energy Generation

- 5.20 Policy SD2 of the Core Strategy stipulates that development proposals aimed at delivering renewable and low-carbon energy will be supported, provided the proposal does not adversely affect international or national designated natural and heritage assets; does not negatively impact residential amenity; and does not cause any significant harm to the character of the landscape, built environment, or historic environment.
- 5.21 The proposed solar photovoltaic (PV) installation is of a limited scale and will not adversely affect the landscape. Furthermore, given the scale of the renewable energy proposal it would not negatively impact the amenity of neighbouring properties in terms of overbearing or overshadowing.

6. Conclusions

- 6.1 This Statement of Case has provided the details of the advice received from the Council's internal consultees in respect of what are considered to be the main salient policy matters material to the appeals. These must be afforded due weight in the decision-making process.
- 6.2 Procedurally, in the event that the LPA had been in a position to determine the application the Inspector is advised that the Officer's recommendation would have been for refusal of the application.
- 6.3 In light of the Council's Statement of Case, the Inspector is respectfully requested to DISMISS this appeal. If the Inspector is minded to allow the appeal then Appendix 1 provides a list of recommended conditions

APPENDICES

APPENDIX 1: Recommended Conditions

- i. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: Required to be imposed by Section 91 of the Town and Country Planning Act 1990.

- ii. The development shall be carried out strictly in accordance with the approved plans [(drawing nos. PP/001b PP/003B; PP/004)], except where otherwise stipulated by conditions attached to this permission.

Reason. To ensure adherence to the approved plans in the interests of a satisfactory form of development and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy, Western Beggard Neighbourhood Development Plan and the National Planning Policy Framework

- iii. Before any work, including site clearance or demolition begin or equipment and materials are moved on to site, a Construction Environmental Management Plan (CEMP) including a full Ecological Working Method Statement and a specified 'responsible person', shall be supplied to the local planning authority for written approval. The approved CEMP shall be implemented and remain in place until all work is complete on site and all equipment and spare materials have finally been removed, unless otherwise agreed in writing by the local planning authority.

Reason: To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981, Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework, NERC Act (2006), Herefordshire Local Plan - Core Strategy policies LD1, LD2 and LD3.

- iv. Details of any external lighting proposed to illuminate the development shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and there shall be no other external illumination of the development.

Reason: To safeguard local amenities and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- v. Within 3 months of completion of the approved works evidence of the suitably placed installation within the site boundary of at least one (1) bird nesting boxes for a site appropriate range of bird species and one (1) bat roosting features, should be supplied to the local authority; and shall be maintained hereafter as approved unless otherwise agreed in writing by the local planning authority.

Reasons: To ensure Biodiversity Net Gain and species and habitats enhancement having regard to the Wildlife and Countryside Act 1981, Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework, NERC Act (2006), Herefordshire Local Plan - Core Strategy policies LD1, LD2 and LD3.

- vi. The ecological protection, mitigation, compensation and working methods scheme including the Biodiversity Enhancements, as recommended in the report by Jade Lemm BSc (Hons) DipHE, Consultant Ecologist [Arbtech] dated 13-02-2024 shall be implemented and hereafter maintained in full as stated unless otherwise approved in writing by the local planning authority.

Reason: To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981, Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework, NERC Act (2006), Herefordshire Local Plan - Core Strategy policy LD2.