



Appeal Decision

Site visits made on 30 July 2019

by T A Wheeler BSc (Hons) T&RP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 January 2020

Appeal Ref: APP/M1005/W/19/3229071

Land at Park Lane, South Wingfield, Alferton, Derbyshire DE55 7LR

- 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 David Wilson against the decision of Amber Valley Borough Council.
 - The application Ref AVA/2018/0513, dated 16 August 2018, was refused by notice dated 5 March 2019.
 - The development proposed is change of use of land from former nursery and garden centre and the erection of 23 timber chalets.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr David Wilson against Amber Valley Borough Council. This application is the subject of a separate Decision.

Main Issues

3. These are:
 - i) The effect of the proposal on the setting of designated heritage assets, in particular Wingfield Park Grade I Listed Building and the South Wingfield Conservation Area;
 - ii) the effects on the character and appearance of the countryside and whether, if the principle of the proposal is acceptable in terms of its wider impacts, the details proposed including the siting, layout and design of the chalets are appropriate; and
 - iii) the effects of the proposal on highway safety.

Reasons

The effect on the setting of designated heritage assets

4. Wingfield Manor (the Manor) is a Grade I Listed Building and also a Scheduled Ancient Monument, and therefore a heritage asset of the highest status. Its significance in historical terms is well documented. At the present time there is no public access to the ruins due conservation work, although I was able to view the site from a nearby public footpath, and from the main entrance on the B5035 road. The site is approximately 1.5km from the Manor.

5. During the period of its use, circa 15th and 16th Centuries, it was a building of significant scale, its design closely related to its function as a manor for hunting. It is acknowledged that the surviving tower was used so that the hunts could be observed from the Manor itself. Until recently it has been possible, by appointment, to visit and climb the tower. However, it is not suggested that it is possible to see the site from there. That would seem correct, based on my observation that from the site itself I could not see the tower, although that was with the tree cover around the Manor in leaf. The appellant's LVIA shows the limit of the zone of theoretical visibility (ZTV) passing through the site.
6. The Framework requires that applicants should describe the significance of any heritage assets affected by a proposal, and the level of detail should be proportionate to the importance of the asset. The local planning authority should also assess the significance of the asset, taking account of the available evidence and any necessary expertise.
7. Historic England did not comment on the proposals at application stage. The expert advice obtained by the Council states that hunting parkland was known to be located to the south of Wingfield Manor, extending as far as the Ripley to Ambergate road. The landscape is much changed from the 15th Century, however given the location of the appeal site in relation to the Manor it can be concluded that it lies within what has been termed the great south park. On this basis, and despite the presence of features such as the railway line and the lack of direct intervisibility, it is reasonable to conclude that the site lies within the setting of the Manor.
8. The Framework defines the setting of a heritage asset as the surroundings in which an asset is experienced, the extent is not fixed and may change as its surroundings evolve. Elements of a setting may make a positive contribution to the significance of an asset, may affect the ability to appreciate the significance, or may be neutral¹.
9. The Planning Practice Guidance provides advice on how setting should be taken into account in decisions. Although views of or from an asset are important, so too are other environmental factors including understanding the historic relationship between places. Also, the contribution that setting makes is not necessarily dependent on public access, since the situation may change².
10. Therefore the point that the Manor is generally well screened when viewed from the site and many other locations in what would have been the great south park is not the only factor to be taken into account in assessing the effect on setting. There is also the ability to appreciate the relationship between the Manor and the landscape forming the great south park from a range of locations and when passing through it. An example is the view from viewpoint 8 in the appellant's Landscape and Visual Impact Assessment LVIA, the public footpath close to the Manor. From there, both the Manor and the site are clearly visible, and the proposal would detract from a view in which one can interpret some of the historical function of the Manor.
11. Similar considerations apply when considering the effect of the proposal on the setting of the South Wingfield Conservation Area (the SWCA). The significance

¹ National Planning Policy Framework February 2019, page 71

² Planning Practice Guidance paragraph 013 Reference ID: 18a-013-20190723

- of the SWCA in part relates to its close association with the Manor. There are other aspects which contribute to the character which are not directly related, for example the core of the village around Marketplace, and the open pastures around All Saints Church.
12. The proposal would have a low level of effect on the setting of the SWCA other than the area around the Manor itself, and particularly the public footpaths running through this part of the conservation areas. Although an extensive part of the SWCA is within the ZTV area, views towards the site are heavily constrained by buildings, boundary walls and vegetation. However, from a number of points on the footpath to the south and east of the Manor, the proposed proposal would be a noticeable and harmful feature due to the scale and layout of the chalets, which would appear as an obtrusive feature in the surrounding pastoral landscape. Therefore, as with the Manor, the effect on appreciating the significance of the asset would relate to the setting and the historical association of the SWCA with the great south park.
 13. Under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) there is a duty to consider whether granting planning permission for the proposal would preserve the listed building or its setting or any features of special architectural or historic interest which it possesses. Section 72 (1) of the Act requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the conservation area. For the reasons given the proposal would not satisfy the tests imposed by the Act since it would fail to preserve the setting of the Manor.
 14. The Framework is clear that any harm to the significance of a designated heritage asset requires clear and convincing justification. In the case of the proposal the harm would be classed as less than substantial. That does not mean that the harm would be less than significant. It is necessary to weigh the less than substantial harm against the public benefits of the proposal³. The public benefits in terms of the local economy are set out in the appellant's Tourism Impact Assessment. Whilst these benefits are a material consideration, they have to be weighed against the significance of the heritage assets and the degree of harm to the setting of those assets. In view of the status of the Manor, and the intrinsic link between its setting and the character and appearance of the SWCA, I do not find that the benefits, although significant, would be sufficient to outweigh the importance which national and local policy gives to the conservation of such designated heritage assets.
 15. I therefore conclude that the proposal would give rise to harm to the setting of both Wingfield Manor and the SWCA, contrary to Policies EN24 and EN27 of the Amber Valley Borough Local Plan⁴ (the AVBLP) which require, amongst other things, that development should contribute towards the preservation of the setting of listed buildings and affecting the setting of a conservation area, and the Framework which requires that heritage assets should be conserved in a manner appropriate to their significance.

³ National Planning Policy Framework February 2019 paragraph 196

⁴ Adopted 2006

The character and appearance of the countryside and proposed design of the development

16. At present the site is largely an open pasture/paddock, and is enclosed with high hedgerows including some trees, especially to the boundary with the B6103 Chesterfield Road. In one part of the site there is an area of dense scrub and trees. The site is triangular in shape and rises towards the B6013 and Riley Lane. There is a storage building constructed of blockwork and steel sheeting close to the entrance to the site, but not included within the site area.
17. The LVIA has used 12 viewpoints (VPs) for assessment. I visited all of these, although in the case of VP5, I was not able to see the site due to the high and dense vegetation along the footpath. Overall, I was able to gain a good impression of those areas from which the proposal would be visible and the significance of the effect. There will be many locations other than the VPs from which the proposed development would be visible; equally there will be many from which it would not. The area is characterised by a rolling landscape, narrow lanes and high hedges, occasional areas of woodland and farm buildings and a railway line, therefore the site can only be seen intermittently when moving through it.
18. The LVIA has assessed the significance of the effect on landscape character and visual effects in year 1 and also at year 15. I have taken the findings of the LVIA into account in my assessment. However, I reach different conclusions in relation to the significance of the effects. In particular, the LVIA assess the effects from VP8 and VP6 as, at worst, negligible adverse in Year 15. Based on my observations, the visual effect of the development would result in a noticeable and harmful deterioration in the view from these VPs, even once any enhanced landscaping of the site has matured. This due to the location of the site just beneath the ridgeline on which Coney Grey Farm lies, and given the rising nature of the site which makes development on the upper part of the site obtrusive.
19. The Council considers that the proposal would conflict with Policy EN8 of the AVBLP which requires that development should not damage or destroy significant trees, woodlands, hedgerows, dry stone walls or other landscape features, unless exceptional circumstances can be demonstrated. Although it is clear that the proposal would involve the removal of some trees within the site, I am not convinced that they are of significance as they appear to be a legacy of a previous use of the land rather than native woodland. I do therefore not consider there to be a significant breach of this policy.
20. The 23 proposed chalets would be arranged in a line of 11 alongside Park Lane; 8 alongside the boundary with the B6103; and 6 clustered within the central part of the site. Each chalet would have a pitched roof finished in felt, timber clad walls, and uPVC windows. There would be a veranda with an oversailing roof and doorway, and a main doorway in one of the side elevations. Given the sloping nature of the site the chalets would need some substructure and I am not clear from the plans of what material these would be constructed.
21. Each chalet would be of an identical design and could not be considered to comply with the local vernacular in terms of scale, materials or elevations. From some points close to the site the layout would be very visible, for example from the first part of the public footpath running to the north of the site. In addition, there are a number of medium distance views from which the

development would be visible and the layout and design of the chalets apparent. On Park Lane itself, the roofs of the chalets would be visible above the boundary hedge, at least until such time as any additional landscaping matured.

22. The appellant would be agreeable to the detailed design of the chalets being made the subject of a planning condition. However, even were a different approach taken to the external appearance of the units, perhaps making some use of a wider range of materials such as stone and slate, and some variety in the designs, the layout of the site would remain overly regimented. It is not apparent how it responds to the topography of the site or the existing planting within it, even with the visualisations that have been provided. Other important aspects of the proposal, such as the provision of additional landscaping and the layout of parking areas are not specified.
23. I therefore conclude that the proposal, given the siting, layout and the design of the chalets, would adversely affect the character and appearance of the countryside, contrary to Policy ER12 of the AVBLP which although supportive of tourism, requires that development should have no significant impact on the character of the surrounding environment, and Policy LS3 which requires that development should conserve or enhance the quality of the natural environment, and the Framework which aims to achieve good design in new development.

Highway safety

24. The proposal would use the existing access to the site from Park Lane. This is currently used by the commercial building, owned by the appellant.
25. The existing entrance provides good visibility looking towards the junction of Park Lane with the B6103. In the other direction, towards Wingfield Park, visibility is limited by the bend in the road and high hedgerow. The response of the County Highways Officer stated that the stretch of road is subject to the national speed limit and that whilst the bend may reduce speeds, this would not be sufficient to overcome the objection on highway safety grounds. A speed survey could be undertaken to seek to demonstrate that the visibility splay would be sufficient to provide a safe access, however the appellant has not commissioned such a survey.
26. On my site visit I did not observe cars obviously travelling along Park Lane at what would be considered potentially unsafe speeds, but traffic was light. However, the proposed access would be in a position close to a bend in the road and with a high hedgerow so that forward visibility is limited. A vehicle travelling through the bend at excessive speed could come into conflict with a vehicle exiting the site. In this context and based on the evidence before me I can only find that the intensification of the use of the existing entrance would pose a risk to highway safety.
27. I acknowledge that it would also be possible to form a new access to the site, further from the bend, and achieve the necessary visibility splays in both directions, however that is not what is currently proposed.
28. A number of other highway concerns have been raised by other parties, including the high speed of vehicles on the B6103 and steepness of Park Lane where it meets that road; the lack of a pedestrian footway to the site and

street lighting; the use of Park Lane as a shortcut by drivers and by horse riders; and access problems when the River Amber floods. I note these concerns however the Council does not consider that they present reasons why the proposal should be prevented on highway safety grounds and I see no reason to take a different view.

29. For the reasons given I therefore conclude that the proposal would give rise to increased risk to highway safety and would not comply with Policy ER12 and TP1 of the AVBLP, and the Framework, which include the requirement that developments should achieve safe and suitable access to the highway network.

Other Matters

30. There is a dispute over whether the site has been previously used as a garden centre or nursery. I have considered the comments of the parties on the point and also looked on site for any evidence of a former use. There are some signs of previous activity on the site which may not have been agricultural, and some third parties say that a landscape gardener operated from the site some years ago. However, I have insufficient evidence before me to take a final view on this matter.
31. In any event, even if there had been some form of market garden on the site it is clear that such a use is no longer active and at the time of my visit the site was being used as a paddock. It is therefore a matter which I give little weight in my decision, when compared with the proposal's lack of conformity with development plan policy and the Framework.
32. Coney Grey Farm is a certified site for 5 touring caravans. The site is well screened from the Amber Valley by the farm buildings and a hedgerow. At the time of my site visit a large rally had been taking place in fields close to the farm, although the event had finished and there were no caravans present. It is suggested that a caravan site at Wingfield Manor has been approved, although I have no information on the type of site and when caravans may be present. These caravan sites do not have the same degree of permanence as would be case were the proposal to proceed, and do not provide a reason to attach less weight to the main issues in the appeal, in particular the visual impacts that the proposal would have on the setting of the Manor, the SWCA and the countryside.
33. The AVBLP expresses support for the development of tourism through Policy ER12. The Tourism Impact Assessment which accompanied the application indicates that the type of self-catering accommodation proposed is in demand and the development as a whole could directly generate around 7.6 full time equivalent jobs and more jobs indirectly in the local economy. These figures are an indication of the potential economic benefits which the proposal could bring. However, Policy ER12 is clear that tourism development should only proceed where there is no significant impact on the character of the surrounding environment and road network. The Framework also identifies that sustainable rural tourism developments can help to support the rural economy, where they respect the character of the countryside. For the reasons given, the proposal would fail to comply with the development plan in these respects. I therefore give moderate weight to the findings of the tourism assessment, however they do not outweigh the conflicts with development plan policy and the Framework.

Conclusion

34. For the above reasons and taking account of other matters raised, the appeal is dismissed.

Tim Wheeler

INSPECTOR