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## Appeal Decision

Site visit made on 24 February 2020

**by Zoe Raygen Dip URP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 25<sup>th</sup> March 2020**

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**Appeal Ref: APP/H1840/W/19/3241960**

**Land adjacent to Station Road, Bretforton WR11 7HT**

- 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 Rooftop Housing Association against the decision of Wychavon District Council.
  - The application Ref 19/00412/FUL, registered 20 February 2019, was refused by notice dated 31 May 2019.
  - The development proposed is erection of up to 20 no. affordable and 5 open market passivhaus homes and associated development.
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### Decision

1. The appeal is dismissed.

### Preliminary matter

2. Counterpart obligations have been submitted by two of the three parties to the S106. For the reasons that follow I am minded to dismiss the appeal for other reasons. Had the proposal been otherwise acceptable, I would have allowed time for the legal agreement to have been completed to address the Council's reason for refusal in this respect.
3. At the time the planning application was submitted to the Council only part of the appeal site was within the CA. During the course of the Council's consideration of the planning application the Council amended the boundary of the CA, following a review, to include the entirety of the appeal site adopting its Bretforton Conservation Area Appraisal and Management Plan on 7 March 2019 (CAA).
4. Although the appellant has submitted a copy of the objection that was submitted during the course of the Council's review, it is not within my remit to make comment on whether the appeal site should be within the CA boundary or not. I have, as required determined the appeal having regard to the desirability of preserving or enhancing the character or appearance of the CA.

### Main Issues

5. The main issues are:
  - the effect of the proposal on the character and appearance of the area, including Green Space;

- whether the proposal would preserve or enhance the character or appearance of the Bretforton Conservation Area;
- the effect of the development on the setting of nearby listed buildings and non-designated heritage assets in Victoria Terrace; and
- whether or not the proposal would create a safe environment for existing and proposed residents

## **Reasons**

### *Character and appearance, Green Space and Conservation Area*

6. Bretforton is a modest rural village. It historically formed in a linear manner predominantly along Main Street. Later modern development has occurred mainly to the north west of the village. The Bretforton Conservation Area (CA) mostly covers the historic area between Station Road and Bretforton Brook including built form and open space. The open space typically punctuates the tight urban grain of the historic core which is characterised by many traditional buildings, built close to the footway, providing enclosure to the streetscene. As such in many cases the open space frames views of the buildings and streetscapes. The significance of the CA is therefore largely derived from the quality of the historic built form, its layout and its relationship to green space forming an historic rural village in an agricultural landscape.
7. The appeal site forms an area of open space which, at the time of my site visit, was uncultivated. It is agreed by the parties that it is a vestige of the agricultural land which provided the setting for the village. The CAA states that the appeal site allows various views into the CA together with views of significant listed buildings. It goes on to state that the preservation of these glimpses, unfolding views, focal views and long range views is essential to the character of the CA.
8. Views are available from Station Road and Shop Lane across the open space formed by the appeal site towards the historic streetscene on Main Street. While the view is not towards the eastern part of the village containing a high number of listed buildings, the past connection between part of the historic core of the village and the agricultural landscape is still particularly evident here. The open space also provides a pastoral setting for the small cottages on Shop Lane. Mature trees around the parts of the edge of the site add to the verdant rural character of the space, which is not diminished by the limited length of railings.
9. While there has been some later development to the west and northwest this is mostly set back from the appeal site and not particularly prominent in views across the site. Victoria Terrace to the north has been in situ since about 1898. There are a few modern houses on the north side of Station Road and east side of Shop Lane. In my view this limited later development does not materially detract from the pastoral setting provided by the appeal site, nor does it provide a suburban context for it.
10. There are a number of open spaces within the CA that have different functions. Some form land around high status buildings, others are backland to the rear of plots on Main Street. The appeal site and the recreation ground both form areas of original agricultural land within the village which provide a rural context for the historically agricultural settlement. While both the CAA and the

appellant's Built Heritage Statement 2019 (BHS) consider that the appeal site is divorced from the surrounding agricultural land, providing the current context for the village, by later development, in my view that does not diminish its contribution to the significance of the CA. Indeed, although there is housing to the north east of the appeal site, it is limited to a single line of development. Beyond that, it is apparent that there is a lack of built form and the character along New Street and the first part of Station Road, is predominantly rural. Moreover, the value of this area of agricultural land, in close proximity to the historic core, as originally constructed, in contributing to the historical development of the settlement is enhanced, due to the limited amount remaining.

11. It is also true that the road improvement scheme, which has facilitated heavy traffic alongside the appeal site has changed the character of the part of the CA where the appeal site is located. However, in my view, while the character is different to that at the eastern end of the CA in terms of tranquillity, this does not mean to say that the contribution made by the buildings and their relationship to the open space is reduced to the extent suggested by the appellant.
12. All in all therefore the appeal site contributes positively and significantly to the character and appearance of the area and the significance of the CA as a historic rural village in an agricultural landscape.
13. The proposal to build 25 houses on the appeal site would significantly erode its openness. Furthermore, views across the site towards the historic Main Street and the cottages on Shop Lane would be lost to the detriment of the character and appearance of the area. I note that Historic England shares this concern<sup>1</sup>. Moreover, although some open space would be retained, the loss of the majority of the open land afforded by the appeal site together with the houses built on it would decrease the agricultural setting of the village core and therefore erode its historic character.
14. The line of the dwellings on the southern extent of the proposed layout would give some enclosure to the street. However, the cross section<sup>2</sup> submitted with the appeal shows that considerable gaps would be formed. The buildings would be a mixture of two storey and bungalows, generally reflecting the height of buildings in the surrounding area. Nonetheless, the plot size together with the proposed depth and span of the buildings means that the overall proportion and design of the dwellings would not be reflective of the traditional dwellings in the CA. Furthermore, although there are a number of proposed house types, the difference in design between them is relatively minor, giving limited variation to the appearance of the houses. Moreover, although some traditional materials would be used, the dwellings would also feature upvc windows and solar panels. These design features, together with the arrangement of the dwellings around a cul-de-sac would form a modern suburban character of development on this sensitive site creating an obtrusive development in the centre of the CA that would not integrate satisfactorily with its surroundings.
15. There is some limited modern development within the CA near to the appeal site. Nevertheless, the CAA notes that much is considered to neither enhance

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<sup>1</sup> Historic England consultation response dated 29 March 2019

<sup>2</sup> Site Section CC PL012 rev B

nor detract from the character or appearance of the CA. It suggests caution to guard against these properties and areas becoming too dominant through future additions or alterations. Therefore, I am of the view that such modern additions should not be used for design cues in this historic environment.

16. The Policies Map of the DP designates the appeal site as a Green Space. Policy SWDP38 of the DP states that development of Green Spaces will not be permitted unless one of three exceptional circumstances are demonstrated. The parties agree that two of those circumstances are not relevant to this appeal. However, the appellant within the planning statement (PS) has carried out an assessment of community and technical need for Green Space in Bretforton, which has been the subject of an independent review by Tyler Grange<sup>3</sup>. In the opinion of the appellant the Green Space is surplus to requirements, and thereby meets the requirements of part Bii of Policy SWDP38.
17. I noted at my site visit that there was an abundance of Green Space within Bretforton. This is confirmed in the PS which concludes that there is an oversupply of all forms of open space in the village and this would continue to be the case should the appeal site be developed. In terms of the amount of space alone therefore I see no reason to doubt the findings of the appellant or the independent review of those findings.
18. However, the explanatory text to the Policy makes it clear that some spaces are used heavily by the local community and are therefore worthy of policy protection. Furthermore, the function of an area is not just a quantitative assessment in terms of those outlined within the PS, but also a qualitative assessment of the function that Green Space. This could be contributing to the character of the area and providing a sense of openness and space, together with the value to the community. Moreover, even if sites are in private ownership, they nonetheless perform valuable functions such as contributing to biodiversity, the character of the area and provide a sense of openness and space.
19. I have already found that the appeal site fulfils these latter two functions. In addition, in this instance, there was considerable objection to the planning application much of that objecting to the loss of the Green Space. I have also received objection from local residents on this issue, suggesting it has some value to the local community. Therefore, while there may be a technical oversupply of open space in and around the village, I am not persuaded that there has been sufficient assessment of a lack of community need to demonstrate that the Green Space is surplus to requirements. Thus, even though it is not for me to question the designation of an area with a development plan, in this instance, I am satisfied that the Green Space meets the criteria within paragraph 100 of the Framework.
20. The appellant suggests that the proposals would improve the functioning of the Green Space when assessed against Annex 3 of Planning Policy Guidance 17:Open Space. Although PPG17 is now obsolete, even if I were to take it into account, the appeal site currently acts as a visual amenity, even without public access, and it is a positive element in the landscape. I accept that if the appeal proposal were to be allowed, then access to the Green Space would be available for the public and there may be opportunities for improved

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<sup>3</sup> 12327\_R01\_Independent Review of SWDP Policy 38Bii – Tyler Grange

biodiversity. However, the area available would be small, furthermore I have seen no conclusive evidence to suggest that there would be a net gain in biodiversity on the site.

21. The appellant's Landscape Statement (LS) concludes that there would be no long or mid-distance views of the appeal site from outside the village. From my observations on site I agree. It goes on to suggest that land around the periphery of the appeal site should be left free of development to allow for the protection of the tree root protection zones and to retain the CA as development free. The LS makes reference to the former CA boundary across the southern part of the site and considers it should remain free of development. It goes on to state that, development could be accommodated outside of the CA, which together with the retention of key trees and hedgerow and strategic planting would ensure the landscape setting of the area would be maintained.
22. However, the CA designation now covers the entirety of the appeal site. Furthermore, while much of the site has vegetation around it, the lack of leaf at the time of my site visit meant that it is particularly open, and views are available across the site in most directions. Hence the housing would be overly visible and prominent. The availability of views may be different in the summer months when the trees are in full leaf. However, this together with further planting and the implementation of improved boundary treatment would not outweigh the harm caused by the loss of the open and spacious character.
23. For the reasons above, I conclude that, the proposal would be harmful to the character and appearance of the area, including the unjustified loss of Green Space and would fail to preserve or enhance the character or appearance of the CA. As well as conflict with Policy SWDP38 of the DP, it would therefore also be contrary to Policies SWDP6, SWDP21 and SWDP25 of the DP. These require amongst other things that development conserves and enhances heritage assets, integrates effectively with its surroundings, reinforces local distinctiveness and is appropriate to and integrates with the character of the landscape setting.

#### *Listed Buildings*

24. From the evidence before me, the significance of the key listed buildings<sup>4</sup> near to the appeal site is largely derived from their historic form and particular architectural features. The BHS considers that the appeal site only makes either a negligible or minor positive contribution to the setting of some of these buildings. This is largely due to the lack of functional or historic link between the buildings and the agricultural land, the presence of trees blocking views of the buildings across the site and the existence of the main road between the appeal site and the buildings.
25. However, at my site visit I saw that the rural appearance and nature of the appeal site emphasises the significance of the houses on Main Street and Shop Lane<sup>5</sup> that are visible in public views across it. There is no particular evidence of any historical connection between the buildings and the appeal site. However, it provides an historical pastoral setting for the streetscape of historic

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<sup>4</sup> Victoria Arms, 25, 27-31, 33 and 35, The Barn, Dovecote attached to east side of No 41, 41, 45, Forge Cottage and attached Barn on Main Street and The Tea Cottage and Oak Cottage on Shop Lane.

<sup>5</sup> 25, 27-31, 33 and 35, The Barn, Dovecote attached to east side of No 41, 41 Main Street, Tea Cottage Oak Cottage

buildings which is still evident reinforcing the extent of the original agricultural setting and forms a part of the significance. As well it provides for aesthetic interest as it allows for views of the buildings.

26. From the evidence in the BHS the appeal site has been separated from the buildings by a street since at least 1812. While improvements mean that it now carries a lot of traffic, visually the road itself is not evident in views across the appeal site, other than for the movement of traffic, a temporary occurrence. Therefore, while the presence of the road and the traffic and consequent noise does have some impact, I found at my site visit that such intrusion is largely subservient to the predominant rural setting of the buildings.
27. To the north of the appeal site is a terrace of dwellings constructed in 1898 known as Victoria Terrace. Although not listed, both parties agree that they form non-designated heritage assets. The significance of the terrace is largely derived from its age and design giving a mostly unified appearance apart from minor alterations to fenestration. The terrace is set back from the road, with the small front garden giving a domestic setting to the buildings. Views are available from the appeal site and Main Street allowing an appreciation of historic and architectural interest of the building.
28. Therefore, the appeal site contributes in a modest way to the setting of the identified heritage assets<sup>6</sup>.
29. The erection of houses on the field would significantly erode the pastoral setting of the listed buildings. Due to the set back of the proposed houses within the appeal site views along Main Street are unlikely to change significantly. However, the open views across the site to the properties along Main Street, Station Road and Shop Lane would be lost, so that the aesthetic value of the buildings would no longer be readily available. Although when the trees are in leaf the direct views to some of these properties may be partially obscured, this is not the case all year round as was evident at my site visit.
30. It is true that some open land would be maintained closest to the listed buildings assets and public access would be available within these areas where users would be able to appreciate the aesthetic value of the buildings. However, there would be a loss of views across the field as a whole. This together with the loss of most of the field would have an adverse effect upon the pastoral setting of the heritage assets. Thus, the harm to their setting would harm their significance, albeit this is a limited part of its significance as a whole.
31. I saw that intervisibility between the appeal site and Victoria Arms, Forge Cottage and attached Barn and 45 Main Street is very limited. This together with the distance between the buildings and the field, together with no known historical or functional connection means that the appeal site makes very limited, if any contribution to the setting or significance of these buildings which would not be materially harmed by the proposals.
32. The area directly opposite Victoria Terrace would remain open and incorporate a footway. As a result, views would still be available of the terrace. Consequently, an appreciation of its historic and architectural interest would

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<sup>6</sup> 25, 27-31, 33 and 35, The Barn, Dovecote attached to east side of No 41, 41 Main Street, Tea Cottage Oak Cottage and Victoria Terrace



still be available. While such appreciation would be diminished to a degree due to the loss of longer distance views over the appeal site, this would not be to an unacceptable degree and the domestic setting would be retained. The proposal would not therefore be materially harmful to the setting and significance of the non-designated heritage asset.

33. For the reasons above, I conclude that, the proposal would have a harmful effect on the setting and significance of some listed buildings. It would therefore be contrary to Policies SWDP6 and SWDP21 of the DP. These require amongst other things that development conserves and enhances heritage assets and their settings.

#### *Safe environment*

34. Policy SWDP21 of the DP requires that opportunities for creating a safe and secure environment and providing surveillance should be included, principally through the layout and positioning of buildings, spaces and uses.
35. The proposed layout incorporates areas of open space together with pedestrian linkages and car parking areas. The area of open space and pedestrian link to the south of the site would be overlooked by windows in the front elevations of a row of properties, adjacent to the space. This would provide natural surveillance contributing to a safe environment.
36. The Council's primary concern relates to the lack of surveillance from plots 1, 16, 17 and 19 over adjacent pedestrian walkways and a car parking area within the proposed development. Although the dwellings on these plots would be bungalows, all would have a side window, except for that on plot 16, overlooking the adjacent open space. While this is not ideal, I have limited corroborated evidence before me to demonstrate that anti-social behaviour is an existing problem in the village, and if so at what level, which might be exacerbated by the development. Furthermore, the routes would be visible through existing gaps in the boundary treatment around the site. Any proposed boundaries could be designed to accommodate views into the site. While the footways within the site would not be lit at night, an alternative route is available via the existing footway adjacent to the road.
37. Therefore, I am satisfied that the proposal would not create a materially unsafe environment for existing and proposed residents. Consequently, there would be no conflict with Policy SWDP21.

#### **Other Matter**

38. The appeal site is considered within the Strategic Housing Land Availability Assessment 2011. While the document does not preclude building on the site, it states that it is a sensitive site which would require a development brief. I have found, in this instance, that the proposals would be harmful to the character and appearance of the area and the CA.

#### **Balancing and Conclusion**

39. I have found that there would be harm to the special interest and significance of some listed buildings and the heritage significance of the CA and a non-designated heritage asset.

40. The appellant has sought to quantify the scale of level of harm on a sliding scale. However, based on my findings I am satisfied that there would be a material level of harm to both the special interest and heritage significance of the listed buildings and to the character and appearance and heritage significance of the CA. I am satisfied that the harm I have identified to the significance of these heritage assets can, in the terminology of the Framework, be considered as less than substantial to which I afford considerable importance and weight.
41. As required by paragraph 196 of the Framework where development would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
42. The proposal would allow public access onto Green Space that is currently private. However, the amount of space would be limited and the public are already readily able to appreciate the space without needing to access it. I give this benefit minor weight.
43. The dwellings would be designed to passivhaus standards. However, there is no evidence before me to suggest that a less harmful scheme could not achieve the same aims. Thus, I give this suggestion little weight.
44. There is no dispute between the parties that the Council is able to demonstrate a five year housing land supply. However, the Framework seeks to significantly boost the supply of houses, and the provision of 25 houses in an agreed accessible location would be a benefit of the scheme, together with the increased economic activity associated with the future occupiers.
45. The proposal is for 80% of the dwellings on the site to be secured as affordable units. This is well above the policy requirement within the DP for 40% of the dwellings to be affordable. Nonetheless, there is dispute between the parties as to whether the Council has been able to deliver sufficient affordable housing to meet its identified needs. However, even if I were to accept the appellant's case on this issue and I give the provision of market and affordable housing significant weight, this, together with the other minor benefits, would not outweigh the considerable weight to be given to the harm to the heritage assets.
46. Moving on to the overall planning balance, I have identified that there would be conflict with the development plan, as there would be harm to the character and appearance of the area, including the loss of designated Green Space, and less than substantial harm to the significance of heritage assets which latter harm is not outweighed by public benefits. Considered in total, the material considerations referred to above do not outweigh the conflict with the development plan.
47. The appellant refers to three appeal decisions<sup>7</sup> where the Inspector found that although the appeal developments do not meet all the policies of the development plan that proposals complied with the development plan strategy when taken as a whole because they were sustainable. However, these appeal decisions relate to a different Council and hence a different development plan. Furthermore, they either did not relate to heritage assets or the Inspector found the development did not harm the setting of heritage assets. Therefore,

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<sup>7</sup> APP/J1860/W/17/3172760, APP/J1860/W/17/3170968 & APP/J1860/W/16/3164875



the decisions are not sufficiently similar to the case before me now in order to reach a similar decision.

48. For the reasons above, and having regard to all other matters raised, I conclude that on balance the appeal should be dismissed.

*Zoe Raygen*

INSPECTOR