



Appeal Decision

Site visit made on 9 January 2023

by Tom Bristow BA MSc MRTPI AssocRICS

an Inspector appointed by the Secretary of State

Decision date: 11 April 2023

Appeal Ref: APP/L3245/W/22/3303850

Henlle Park Golf Club, Henlle Lane, Gobowen SY11 3LQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant planning permission.
 - The appeal is made by Mr R. Tomley and Coppergreen Developments Ltd. against the decision of Shropshire Council.
 - The application Ref 21/02981/EIA, dated 8 June 2021, was refused by notice dated 22 February 2022.
 - The development proposed is described on the application form as 'use of part of existing golf course for stationing 90 holiday lodges with associated roads, drainage and associated works.'
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Decision

1. The appeal is dismissed.

Preliminary matters

2. Notwithstanding earlier iterations, each proposal must be determined in accordance with the development plan unless material considerations indicate otherwise. The development plan here includes policies of the Shropshire Core Strategy (adopted February 2011, the 'CS') and of the Site Allocations and Management of Development Plan (adopted December 2015, 'SAMDev'). Neither main party has referred to policies of the emerging Local Plan, currently at examination, in furtherance of their case.
3. I have had regard to various other material considerations, including the National Planning Policy Framework ('NPPF'), the Planning Practice Guidance, Historic England's guidance on the setting of heritage assets (Good Practice Advice in Planning Note 3, second edition), and the Landscape Institute's Guidelines for Landscape and Visual Impact Assessment, third edition (updated November 2021, 'GLVIA3'). The proposal is 'EIA' development.¹ I have therefore had regard to the associated Environmental Statement.

Main issue

4. The main issue is the effect of the proposal to heritage and the landscape.

Reasons

The site

5. The site amounts to about 9.6ha of land central to the wider 52ha golf course, albeit with a taper to provide access to an area of hardstanding by the club

¹ Under the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 as amended.

house.² Although the golf course has been maintained as such, it ceased operating on 28 March 2022. Of an 18 hole course, 9 would remain available. Their use would, however, be restricted to holidaymakers (as would be secured via the planning agreement of 21 November 2022).³ There are various heritage assets nearby, notably three scheduled sections of Wat's Dyke beyond Preeshenlle Lane tracking by the course to the east, and Henlle Hall towards the north. Henlle Lane falls to the west, beyond which in short order is the A5. Gobowen is broadly to the south. There is the Lion Quay Hotel to the north between the site, A5, and the winding course of the Shropshire Union Canal.

The proposal

6. In summary the proposal is for 90 lodges dotted about the appeal site. The appellant states that they would have a combined floorspace of 5,414sqm, representing some 2.3% of the site.⁴ Amongst other documentation, the proposal is supported by a site layout plan, lodge floorplans and elevations, an Earthworks Strategy,⁵ and, noting that the site is subject to a Tree Preservation Order, an Arboricultural Impact Assessment ('AIA'),⁶ and a mitigation planting plan.⁷

Heritage assets, statutory and policy context

7. In this instance matters of heritage and landscape are intertwined. In summary section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended places a duty upon me to have special regard to the desirability of preserving listed buildings or their settings. Likewise, and in summary also, SAMDev policy MD2, criterion 2. iii., and policy MD13 seek to ensure that development integrates suitably with the historic environment. NPPF paragraphs 189 and 199 set out how great weight should be given to the conservation of designated heritage assets, irreplaceable resources, relative to their significance.
8. Significance may be affected indirectly, i.e. by virtue of changes to the surroundings in which an asset is experienced. Not all change is harmful, and not all elements of setting contribute equally to significance. As noted in the appellant's heritage Statement of Evidence ('SoE'),⁸ albeit that the visual dimension of setting is often important, that is not the sole manner in which the surroundings in which an asset is experienced may contribute to historic integrity.⁹ The SoE reviews an earlier Heritage Statement ('HS').¹⁰
9. CS policy CS5 seeks to control development in the countryside in accordance with national planning policies. In summary, and amongst other things, CS policies CS6 and CS17 set out how development should appropriately protect the natural and historic environment. NPPF paragraph 174, criteria a) and b)

² Plan entitled 'Henlle Location 1-2500' showing the distinction between the appeal site, edged red, and wider land ownership edged blue.

³ Leading National Highways to recommend that conditions should be attached to any planning permission in that respect, with reference to their earlier concerns over effects on the A5 and A5/B5009 junction.

⁴ Albeit the parameters for that calculation are unclear, and numbers are inevitably a crude proxy for effects.

⁵ Prepared by Jackson Design Associates, ref. 21-2332-ES, September 2021.

⁶ Prepared by Tree 21 Limited, ref. 210525-2.0-AIA-HGC-T21-MW, May 2021.

⁷ Plan no. 3050-001, Revision E.

⁸ Prepared by Winterburn Heritage & Planning, July 2022.

⁹ The SoE citing R. (on the application of Palmer) v Herefordshire Council [2016] EWCA Civ 1061, and Catesby Estates Ltd and SSCLG v Steer [2018] EWCA Civ 1697 in that context.

¹⁰ Prepared by Kemberntons.

set out how planning should contribute to and enhance the natural and local environment, including by protecting and enhancing valued landscapes and by recognising the intrinsic character and beauty of the countryside.

10. Arguably almost any building, or human intervention in the land, has some level of significance in physically reflecting the past in the present. There is a continuum of significance, rather than abrupt distinction as to whether something represents a non-designated heritage asset ('NDHA'). NPPF paragraph 203 sets out, however, that 'the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application....' SAMDev policy MD13 is similar.

Scheduled monuments

11. Amidst other assets nearby as identified in the HS, the golf club falls relatively close to three scheduled sections of Wat's Dyke.¹¹ Roughly, Wat's Dyke represents the alignment of Preeshenlle Lane here. Preeshenlle Lane is narrow and enclosed to varying degrees, whether by ditches, embankments, sections of Wat's Dyke or hedgerows.
12. Preeshenlle Lane provides access to grade II listed Henlle Hall,¹² in place of a former westwards-orientated historic access. It curves from the Hall north-westwards, turning into Preesgween Lane, heading towards Henlle Lane. There Preeshenlle Lane arcs around the plot of Gardeners' Cottage (an historic property). Gardeners' Cottage falls beyond the grade II listed stable block to the north-west of the Hall.¹³
13. Beyond Gardeners' Cottage there is a scheduled section of Wat's Dyke, falling in the landform to the course of the Canal.¹⁴ That 'northern' section of the Dyke appears as a substantial embankment. It is now in large part wooded and subsumed with self-seeded vegetation. Albeit not readily appreciable as a human intervention in the landscape at first glance, it nonetheless diverges markedly from the otherwise generally more level surroundings either side.
14. Heading southwards, Preeshenlle Lane is broadly straight. Aligned roughly centrally with the golf course there is another, shorter, scheduled section of the Dyke.¹⁵ That 'middle' section falls to the east of Preeshenlle Lane between Walnut Lodge, and a collection of what appeared agricultural buildings associated with grade II listed Preeshenlle Farmhouse.¹⁶ Grade II listed Preeshenlle Old Hall and associated buildings fall a short distance further southwards,¹⁷ to the west of the track. By virtue of its limited length, surrounding visual context, and on account of the partial infilling of the ditch that would have existed here previously, the central section of the Dyke is less readily apparent than the northern section.
15. To the south of Old Hall there is a further scheduled section of Wat's Dyke.¹⁸ The list entry describes how the embankment of that 'southern' section varies

¹¹ Under section 1 of the Ancient Monuments and Archaeological Areas Act 1979 as amended.

¹² List entry no. 1054226.

¹³ List entry no. 1177614.

¹⁴ List entry no. 1020615.

¹⁵ List entry no. 1020561.

¹⁶ List entry no. 1054228.

¹⁷ List entry no. 1177650.

¹⁸ List entry no. 1020617.

from about 2m in height, comparable with the northernmost section, to 0.4m heading southwards. The southern section is, however, partially overlain by Preeshenlle Lane. Eventually interrupted by the River Perry and a handful of dwellings, the southern section of the Dyke extends near to scheduled Bryn-y-Castell (a substantial oval-shaped mound, formerly a motte castle).¹⁹

16. The form of Wat's Dyke has softened over time, whether by virtue of agency, nature, or both. Superficially it is difficult to tell where human interventions in the landscape begin or end. However the condition of the sections of the Dyke here might be described as honest. They reflect the passage of centuries, rather than necessarily being in 'poor' condition (as is referenced in the HS).
17. Wat's Dyke, elsewhere also a ditch and bund of variable size and perceptibility, runs between the Dee Estuary by Holywell and the River Morda. It is commonly seen as representing the eastern boundary of the Welsh or Brython kingdoms at some point around the eighth century, with the kingdom of Mercia beyond (a precursor to Offa's Dyke).
18. The Dyke was intrinsically constructed of, and by modifying, the land. It incorporates older fortifications such as Old Oswestry Hillfort some distance away. Other features have also been subsumed within its line reflecting a long and complex history of human settlement and cultural change (including as reflected by Bryn-y-Castell which was a medieval fortification).
19. Insofar as relevant to this appeal, the significance of nearby scheduled sections of the Dyke lies in their form, construction, potential archaeology and importantly their interaction with their wider surroundings. That interplay of form and surroundings, along with the evolution of the landscape and built environment, collectively attest to broader historic and cultural trends. Their significance is far from solely visual.

Listed buildings and NDHA

20. Listed buildings add to the historic palimpsest that this area represents. To varying degrees their significance partially derives from the landscape in which they are set. The list entries referenced above indicate that Preeshenlle Farmhouse and Old Hall trace their origins to the eighteenth and sixteenth centuries respectively. Whilst featuring varied intricate brickwork, both are less grand than Henlle Hall (representing something of a transitional phase between vernacular and 'polite' architecture).
21. On account of the broadly level topography around them, the dense band of trees and vegetation to the east of the golf course, and the intervening distance between them and the appeal site, there is little, if any, intervisibility. Aside from broadly reflecting the evolution of the wider area, there is also nothing to indicate a particular associative, cultural or other resonance between the site and Preeshenlle Farmhouse or Old Hall.
22. Henlle Hall falls closer to the appeal site, some 70m at its nearest. The Hall is grand, consciously designed to be so. Its current form likely traces its origins to the late eighteenth century. Consistent with an understated Georgian aesthetic, the Hall is of neo-classical proportions and Italianate. The list entry describes

¹⁹ List entry no. 1019835.

how elements, notably the veranda and service range, are latter nineteenth century additions. The stable block, effectively occluded behind the north-western elevation of the Hall, is of broadly consistent era and character. Albeit that the Hall, as with many buildings in Shropshire and elsewhere, represents the rebuilding of a former property, its Georgian form roughly aligns with the economic and social change associated with the opening of the Canal.

23. Similarly consistent with approaches to landscape architecture of that era, the Hall falls within extensive, varied grounds. The Historic Environment Record ('HER'), sets out how a 'park' was created around the same time as the Hall was rebuilt,²⁰ albeit that some earlier landscaping was retained (notably fishponds close to the Hall).
24. Making best advantage of views westwards across the declining topography the HER entry explains that that 'a small park stretching west of the house, with belts of trees around its edges (especially to the south)...' was established during the 1790s. I understand that the land associated with Henlle Hall expanded to the north by 1802, and to the south by 1839. That latter expansion extended to just north of Bryn-y-Castell. References to 'the former park' in this decision include land encompassed by that latter phase of expansion.
25. I am also told that Dr. Paul Stamper's work in the 1990s, which underpins much of the HER entry, indicates a different planting concept emerging at some juncture between 1839 and 1875. Around then a more naturalistic pattern of widely scattered parkland appeared, as opposed to an earlier clearer-cut separation of landscaped and informal grounds. Albeit that the former park has changed in extent and nature over time, it is not in dispute that it represents an NDHA.
26. Insofar as relevant to the appeal, the significance of Henlle Hall derives from its architecture, design and relationship with surrounding land. There is now limited intervisibility between the former park and Hall, including by virtue of the intervening presence of holiday lodges created in association with the Hall (loosely scattered closer to it than the appeal site). However there is more clearly an historic connection between the former park and Hall. Significance here is not only embodied in the original form and layout of buildings and the surrounding landscape, but also in how alterations honestly attest to changing social and economic trends and philosophies over time.

Landscape

27. The appellant's Landscape and Visual Impact ('LVIA'),²¹ referencing GLIVIA3, sets out that the site falls within the 'principal settled farmlands' landscape character type. That is as described in the Shropshire Landscape Typology document (2006, 'SLT'). More broadly to the west the LVIA study area extending beyond the appeal site falls also within 'pasture hills' and the 'high enclosed plateau' SLT landscape typologies. Those landscape types differ topographically, but in terms of land use and pattern bear some similarity.

²⁰ Principal Record no. 07629.

²¹ Prepared by Lingard Farrow Styles, ref. 3050-LVIA, revision C. (October 2021).

28. In respect of the principal settled farmlands typology, one common to Shropshire, the SLT identifies a characteristic 'medium' scale mixed farming landscape with a varied field pattern. The lack of 'significant woodlands' is noted, as are 'small pieces of ancient woodland and plantation'. Whilst now maintained as a golf course, the site nevertheless appears on the ground as essentially natural, gently undulating, and predominantly open aside from a peppering of mature trees. It is therefore broadly consistent with landscape character here.
29. With reference to landscape sensitivity, receptors and susceptibility, the LVIA reaches the view that the effect of the proposal would in certain respects be 'slight adverse becoming slight beneficial after 3-5 years as planting establishes.' The LVIA rationally finds wider effects to be more diffuse and less significant. In that context I note that there is a public right of way crossing the golf course,²² roughly from the club house laterally to near Old Hall.
30. GLVIA3 puts methodological rigour to assessing landscape value and effects. However such assessments are inherently reliant on a sequence of judgements. Amongst other things, those judgements relate to perceptual and associative values, the uniqueness or representativeness of a given site in its surrounding context, and also the scale at which that surrounding context is drawn. Different individuals applying GLVIA3 may therefore rationally come to different assessments of landscape value, and in respect of the effects of a scheme.

The landscape and heritage value of the site

31. At some point in the twentieth century parts of the former park were brought into agricultural use and managed accordingly (including via seeding, harrowing and rolling). That likely resulted in the thinning of former clusters of trees. Ownership, curtilage and significance are different concepts. Nevertheless, I am told that much of the former park associated with the Hall was sold separately in 1970.
32. The golf course was thereafter laid out in the early 2000s, a process which also entailed change. There are certain pictures of that process before me, albeit apparently principally related to the area around the club house and site access. It is not possible either to attribute, or to accurately gauge the extent of, any changes to the appeal site specifically based on that information.
33. That points to something of a contradiction in the appellant's evidence. The HS states that 'a lot has changed'. However it notes that during the construction of the golf course 'a number of features from the original park, have, nevertheless been retained...', and also that the course retains a 'parkland' feel. Whatever word or phrase is used to describe value, effects or weight in decision-taking is inevitably imperfect. Nevertheless the parkland feel of the site is, in my view, an apt descriptor of the current nature of the appeal site. Changes over time do not appear to have significantly eroded a seemingly natural, open character interspersed with consciously-planted trees.
34. Furthermore, the course was evidently laid out working broadly with the contours of the land, avoiding existing features including ponds and trees. Map regression shows continuity over time. Despite latter alterations, the NDHA

²² Footpath 0310/3/1 running broadly next to the club house laterally across the site towards Old Hall.

embodies or represents a fair, or moderate, degree of significance in itself along with contributing to wider landscape character.

35. As acknowledged by the Council inter and intra-visibility between the site and the Hall, including by virtue of the landform, holiday lodges and trees referenced above, is 'negligible'. I was also unable to see the scheduled sections of the Dyke from the appeal site by virtue of the topography and intervening features. However following on from the foregoing reasoning there is nonetheless some value of the site to the significance of both. The site contributes to a limited degree to the setting of Henlle Hall, enabling an understanding or appreciation of history in the present, and changing approaches to land management over time.
36. By virtue of the extensive setting to Wat's Dyke, and by reflecting in part Georgian interventions in a landscape, the historic connection of the site to the scheduled sections of the Dyke is lesser. However it is not absent. As set out above the landscape here is characterised by a long continuity of use, settlement and reapportionment, the limits of the former park itself reflecting a centuries-old constraint. Including walking west to east across the footpath bisecting the golf course, the site also enables an appreciation of the essence of the landform and rural context in which the Dyke emerged (and, to some extent, still lies).

The effect of the proposal

37. I have set out above how there is a differential landscape or heritage value to the site, including in respect of contributing to the significance of the Hall and scheduled sections of Wat's Dyke. Whilst, with reference to NPPF paragraph 199, the distinction between 'substantial' and 'less than substantial' harm is essentially binary, I am effectively presented with four perspectives on the proposal's effects.
38. In summary, Historic England is of the view that less than substantial harm would result. The Council go further in advancing that the less than substantial harm would be 'at the middle and upper end of the scale.'²³ The appellant's HS states that the proposal would 'not impact on any of the heritage assets...'.²⁴ The SoE instead makes the case that any less than substantial harm would be 'at the lower end of the scale'.²⁵
39. In short the SoE position above aligns with my independent assessment. In all respects the value of the site to landscape character and historic significance is either moderate or limited on account of various factors. The proposal would leave much of the former park unaltered. As with the layout of the golf course, the scheme would essentially work with the contours of the land and existing landscape features. The holiday lodges themselves, albeit standardised in form, would be modest. They would be arranged relatively sparsely. Only three existing trees of many would be felled (the contribution of which to local

²³ Paragraphs 3.4 and 3.5 of the Council's statement of case.

²⁴ Paragraph 8.13.8.

²⁵ Paragraph 5.3.

character is, in summary, limited).²⁶ Extensive planting is also proposed,²⁷ which would soften, or partially occlude, the lodges from view.

40. Nevertheless the proposal would diverge from prevailing landscape character by introducing significant built development. The extensive planting proposed would also diverge from landscape character and the existing nature of the site, limiting an appreciation thereof as much as screening some of the development proposed. I therefore do not agree that the effect of the proposal would become slightly beneficial over time.
41. The nature of the intervention proposed is also more significant than the figures quoted in paragraph 6 of this decision suggest. Paths amounting to some 6,195sqm would be laid out. The Earthworks Strategy indicates that cut and fill would affect 706.42 and 693.45 cubic metres respectively. As a whole the scheme appears to represent a far more significant alteration to the landscape than has occurred here previously as a result of changing uses and apportionment over the course of the twentieth and twenty first centuries.
42. Moreover the scheme would fall centrally within the golf course; I noted above that the pictures of previous earthworks are focussed around the club house and entrance. Whilst the former park of which the appeal site is part was a later addition to the holdings of the Hall, there is little affinity with other built development here (as opposed to around the A5 or Shropshire Union Canal to the north-west). In terms of function, the land itself is of primary importance to a golf course. The land itself would have also been of primary importance in respect of a former park or agricultural use. That would not remain the case in terms of holiday accommodation.
43. Although there are various moderating factors, the proposal would adversely affect landscape character, the significance of the NDHA, and result in less than substantial harm to the setting of Henlle Hall and the three nearby scheduled sections of Wat's Dyke. In that respect the proposal would conflict with the expectations of statute, the relevant provisions of CS policies CS5, CS6, CS17 and SAMDev policies MD2 (criteria 2. i. and iii.) MD11 (criteria 1) and MD12, insofar as they relate to ensuring development integrates appropriately with landscape, heritage and local character. Conflict would also arise with NPPF paragraphs 174, 189 and 199. Whilst the holiday lodges may fall within the statutory definition of caravans, there is no indication that the proposal is intended to be other than permanent (including in respect of earthworks).

Other matters

44. Development plans, and the NPPF, contain different provisions pulling in different directions; both should therefore be considered in their entirety. The development plan and NPPF accord in-principle support to tourism facilities (including via SAMDev policy MD11 and NPPF paragraph 84). Both reflect that tourist facilities may justifiably be located outside of settlements, for example to make advantage of scenic settings. In that context the proposal would have various benefits, including generating employment during construction and

²⁶ I saw that they are fairly categorised B, C and U in the AIA with reference to BS5837:2012, Trees in relation to Design, Demolition and Construction.

²⁷ 79 'extra heavy' standards, 4,490 sqm of native screen planting, 568 linear metres of native hedgerow.

operation and as holidaymakers would bring trade to nearby services and facilities.²⁸ The proposal has been met with some support with that in mind.

45. I understand, with the exception of 2017, the golf course has operated at annual loss since 2011. Some individuals may elect to holiday here on account of the landscape and heritage, and by consequence the development may enable more individuals to appreciate the surroundings than was previously the case. More broadly, as attested to by holiday accommodation nearer the Hall and at Lion Quay, tourism is a significant component of the local economy. The appellant has also engaged with Historic England regarding the intention to clear some scrub and provide public information to aid an appreciation of Wat's Dyke. There is also reference in the appellant's statement of case to 'fostering improvements to biodiversity', likely by dint of the landscaping proposed.
46. However the evidence in terms of the operation of the golf club since 2011, and its closure, is extremely limited. There is reference to membership declining, and to members registering elsewhere. The reasons underlying that are unclear. I am told only that the golf club has run at an annual loss since 2011, though I do not know the extent of any loss or the detailed circumstances behind that. There is no robust evidence as to whether those circumstances are representative of broader trends. As an illustrative counterpoint, income-based valuations are typically based on at least three years' worth of accounts (and entail considerations of what is a fair maintainable operating profit amongst other things).
47. In short the evidence before me falls short of demonstrating that the use of the site as a golf club is inherently unviable. It similarly falls short of justifying the harm that would result relative to any other use, which theoretically may entail less harm and also comparable biodiversity benefits (for example an active use based on the primacy of the land as referenced in paragraph 42 of this decision). Whilst there would be benefits, there is, in short, a logical disjuncture as to how they justify the particular proposal before me. There is furthermore no substantive information before me as to the planning circumstances that applied to the construction of holiday lodges closer to Henlle Hall. Theoretically they may have involved a combination of different factors, for example any heritage harm there may have been justifiably outweighed by something else.
48. The HS refers to the middle section of Wat's Dyke, in respect of which it is the appellant's intention to clear some scrub and provide public information, as within the ownership of the applicant.²⁹ However that is not shown on the location plan.³⁰ I cannot therefore be certain that those intentions would be achievable in practice, or, given that there is limited information in terms of what is proposed, gauge the effects of that proposed intervention. Even if I am wrong in that, the benefits of improving the legibility of Wat's Dyke would both be somewhat artificial relative to the present honest character thereof referred to in paragraph 16 of this decision, and would not offset the broader landscape and heritage harm that would result.

²⁸ As detailed in the appellant's Economic Impact Note prepared by Pegasus Group, ref. P21-1547 (21 June 2022).

²⁹ Under section 6.1.1.

³⁰ Plan entitled 'Henlle Location 1-2500'.

49. Moreover, neither the support for tourism development in the development plan nor NPPF is unconditional. SAMDev policy MD11 is qualified by according support to development that 'complements the character and qualities of the site's immediate surroundings...'. NPPF paragraph 84. c) is similarly qualified by supporting sustainable rural tourism which respects the character of the countryside. Whilst more individuals might come to the area by virtue of the scheme, that would be at the expense of significance.

Conclusion

50. I agree with the theoretical position in the SoE,³¹ in summary that a finding of heritage harm is not determinative of the outcome of a decision (which involves considering the full gamut of planning considerations). Nevertheless NPPF paragraph 200 sets out how 'any harm to, or loss of, the significance of a designated heritage asset... should require clear and convincing justification'. In that context, despite the qualified nature of the harm that would result, and even were the proposal acceptable in all other respects, that has not been demonstrated here. Inherent in my reasoning above is that the public benefits do not outweigh the harm to designated heritage assets that would result, nor do they, or any other material considerations, justify allowing the appeal in the light of conflict with the development plan considered as a whole. I therefore conclude the appeal should be dismissed.

Tom Bristow

INSPECTOR

³¹ Paragraph 4.29.