



Appeal Decision

Site visit made on 5 September 2023

by S D Castle BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 October 2023

Appeal Ref: APP/X2410/W/23/3315997

Home Field, Anstey Lane, Thurcaston, LE7 7JB

- 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 & Mrs J. V. Morison against the decision of Charnwood Borough Council.
 - The application Ref P/21/2401/2, dated 05 November 2021, was refused by notice dated 12 October 2022.
 - The development proposed is erection of four detached residential dwellings, including two detached carports, with enhanced open space and associated vehicular access.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council, in its appeal statement, refers to the emerging Draft Charnwood Local Plan 2021- 2037 (the ELP). I have little information to suggest when the plan is likely to be adopted, if any policies will require modification, or if there are any unresolved objections. For these reasons, only limited weight is given to the emerging policies in the determination of this appeal.

Main Issues

3. The main issues are the effect of the proposed development on:
 - designated heritage assets, with particular regard to the character and appearance of the Thurcaston Conservation Area, and the setting of the Grade II listed buildings within the Bybrook Farm complex;
 - the character and appearance of the area in relation to landscape and the Area of Local Separation;
 - the living conditions of existing surrounding occupiers, with particular regard to noise and disturbance; and
 - biodiversity and protected species;

Reasons

Heritage

4. The site relates to a field within the Thurcaston Conservation Area (TCA) that is accessed off the eastern side of Anstey Lane. The field is located to the rear of the historic Bybrook Farm complex and slopes down to Rothley Brook at its

eastern edge. The buildings within the Bybrook Farm complex have been converted to dwellings, including Bybrook Farm Cottage (no 23), Bybrook Farm House (no 25), and Barn (no 25A), all of which are Grade II listed.

5. The site forms part of the immediate setting of these listed buildings. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA) requires the decision maker, in considering whether to grant permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Additionally, Section 72 of the LBCA requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.
6. The National Planning Policy Framework (the Framework) defines the setting of a heritage asset as the surroundings in which such an asset is experienced. 'Significance' has a particular meaning in heritage policy terms and is defined as the value of a heritage asset because of its heritage interest which may be archaeological, architectural, artistic or historic. The Framework's glossary confirms that significance can be derived from a setting as well as the asset's physical presence.
7. Whilst the residential development of the Bybrook Farm complex has resulted in more recent additions and alterations to the original buildings, their agricultural origins remain clearly legible through their distinctive courtyard layout, utilitarian form, and agrarian architectural details. The listed buildings at the Bybrook Farm complex have retained much of their original historic character and features of interest noted in their listing descriptions, including distinctive finishing materials of granite and slate rubble stone. I find the significance of these listed buildings lies partly in the evidential value of their historic fabric, partly in their aesthetic value as charming and characterful structures, and also in the buildings' group value which is strongly illustrative of the agrarian history of the locality.
8. The appellant's Heritage Assessment¹ advises that the open fields adjacent to Bybrook Farm would once have been an integral part of its agricultural context. I acknowledge that the historic ownership and functional links between the Bybrook Farm complex and the site no longer remain. Furthermore, modern developments have already encroached into the listed buildings' surroundings and public views of the site are limited. Listed buildings are, however, safeguarded for their inherent architectural and historic interest irrespective of whether or not public views of the buildings can be gained from their setting.
9. There is currently clear intervisibility and views between the listed buildings and the site (and vice versa) and the site remains evocative of Bybrook Farm's historic rural setting. As such, the undeveloped character of the site continues to be important in understanding the agrarian origins of the Bybrook Farm complex, contributing positively to the listed buildings' heritage significance.
10. I note that careful attention has been paid to the overall design of the dwellings to give them an attractive rural appearance. I am not persuaded, however,

¹ An archaeological desk-based assessment for land west of Anstey Lane, Thurcaston, Leicestershire (SK 56627 10990)

that this would result in a development that is in harmony with the Bybrook Farm complex. The proposed dwellings would harmfully disrupt the valuable remaining open field setting to Bybrook Farm with a scale and layout of development that would visually compete with the listed buildings. Instead of looking out over a scene of agricultural pasture land, the Bybrook Farm complex would look out onto a rural housing development. This would undermine the ability to appreciate the agrarian origins and heritage significance of the grouping of listed buildings.

11. From the evidence before me and my observations on site, the significance of the TCA is largely derived from the number of high-quality buildings of traditional local rural vernacular, and the spacious siting of many of these buildings along Mill Road and Anstey Lane within the rural landscape. The historic buildings and fields associated with Bybrook Farm are important to the significance, character and appearance of the TCA by virtue of their aesthetic quality and their role in reinforcing the agrarian origins of the settlement. The Thurstaston Conservation Area Appraisal states that the linear form of Anstey Lane and Mill Road is the backbone of the character of the TCA.
12. The development would introduce buildings to the rear of the historic Bybrook Farm complex, harming the original linear pattern of development on the eastern side of this part of Anstey Lane and encroaching on the spacious open field siting of the Bybrook Farm complex. These harms would be apparent from the listed buildings adjoining the site, and also to the public through glimpses from Anstey Road, including down the access drive. The development would harm, therefore, both the character and appearance of the TCA, and the significance of the TCA as a designated heritage asset.
13. The proposal is therefore contrary to Policies CS2 and CS14 of the Charnwood Local Plan 2011-2028 Core Strategy (CCS), Policy EV/1 of the Charnwood Local Plan 2004 (CLP), and Policy T&C7 of the Thurstaston and Cropston Neighbourhood Plan (TCNP). Taken together, these policies seek appropriate forms of development that conserve and protect heritage assets and their settings. Furthermore, the proposal conflicts with the Framework's aims to conserve heritage assets in a manner appropriate to their significance, and to ensure development is sympathetic to local character and history.
14. Taking into consideration the findings above, the harm to the significance of both the TCA and the listed buildings within the Bybrook Farm complex would be less than substantial. Under such circumstances, paragraph 202 of the Framework advises that this harm should be weighed against the public benefits of the proposal. I return to consider the proposals in respect of paragraph 202 later in my decision.

Area of Local Separation, Character and Appearance

15. CLP Policies CT/1 and CT/4 refer to Areas of Local Separation (ALS) between specific settlements, including one between Cropston and Thurstaston. Policy CT/1 states that development within these areas of generally open land will be strictly controlled and limited to specific types of development. Policy CT/4 states that development acceptable in principle in ALS (as set out in Policy CT/1) will only be permitted where the location, scale and design of development would ensure that the predominantly open and undeveloped character of the area is retained and the already narrow gap between settlements is not reduced.

16. CCS Policy CS11 requires new development, amongst other things, to protect landscape character and maintain the separate identities of towns and villages. The policy also seeks to protect the predominantly open and undeveloped character of ALS unless new development clearly maintains the separation between the built-up areas of these settlements.
17. The main parties agree that the proposed dwellings would be located within the ALS between Cropston and Thurcaston and would, therefore, go against the aims of CLP Policy CT/4 and CCS Policy CS11. The proposal would inevitably reduce the ALS between Cropston and Thurcaston by introducing built form into a previously open field. While there would be some harm caused to the ALS, it would be a relatively minor effect given the small scale of the development in the context of the wider open land between the settlements. Nevertheless, the proposal would conflict with CLP Policies CT/1, CT/4, and CCS Policy CS11 in this regard.
18. In its appeal statement, the Council acknowledges that the site is not, however, within the 'Zone of Separation' identified by the TCNP Proposals Map. The Council, therefore, no longer finds conflict with Policy T&C12. I see no reason to disagree. Furthermore, the Council no longer finds conflict with CLP Policy CT/2. As I have also found the proposal to conflict with Policy CT/1, I concur that Policy CT/2 is not engaged.
19. In terms of landscape character, the Council refer to the site as being within the Charnwood Forest Landscape Character Area and the Thurcaston Agricultural Slopes Character Area. The site positively contributes to the key characteristics of these landscape character areas by being a pocket of agricultural land at the edge of a settlement adjacent to a historic farmstead with local stone external materials. The appellant's Landscape and Visual Impact Assessment advises that the site is within the Charnwood National Character Area (NCA). The site and its setting contribute positively to this NCA's key characteristics by virtue of being a predominantly pastoral farmland area, with a historic local vernacular farmstead, a fast-flowing watercourse, and a historically linear village.
20. The appeal site is, therefore, an important undeveloped field that connects the Bybrook Farm complex to the surrounding countryside, contributing positively to the legibility of the historically linear settlement pattern of Thurcaston within its agrarian surroundings. The addition of housing on the site would represent an urban encroachment into the rural pastoral character of the site and surrounding wider landscape. It would harm the site's existing open rural appearance, and disrupt the legibility of the historically linear and agrarian settlement pattern of Thurcaston at this part of Anstey Lane. The harm to landscape character would therefore be significant.
21. Visual harm would primarily be limited to occupiers of adjacent dwellings whose experience of the visual connection between the historic Bybrook Farm complex and the surrounding open countryside would be disrupted. I am not persuaded that additional landscaping could significantly mitigate the identified landscape character and visual harms given the scale and position of the proposed buildings.
22. In conclusion on this main issue, the proposed development would have a harmful effect on the character and appearance of the area, and would result in the physical reduction of the ALS. The proposal is therefore contrary to

CCS Policy CS11, CLP Policies CT/1 and CT/4, and paragraph 174 of the NPPF. Taken together, amongst other things, these policies require that new developments retain the predominantly open character of the area, protect landscape character, reinforce sense of place and local distinctiveness, and recognise the intrinsic character and beauty of the countryside.

Living Conditions

23. The proposal includes an access to the site that runs close to habitable windows in the side elevation at 23 Anstey Lane and rear elevations of dwellings at 35 and 36 Wallis Close. The traffic resulting from 4 additional dwellings would, however, be light. Traffic to the dwellings would pass adjacent to the existing boundary fencing and planting adjoining the access, limiting the effect of noise and light disturbance on the adjacent properties. The existing lawful use of the site for agriculture can reasonably be expected to generate the movement of large vehicles through the existing access. As such, the limited increase in vehicles that would typically access the proposed dwellings would not have an unacceptable effect on the living standards of surrounding occupiers in terms of noise and disturbance.
24. With regards to this main issue, the proposal does not conflict with either CCS Policy CS2, CLP Policy EV/1, or the Framework. These policies, taken together, amongst other things, require development to protect the amenity of people who live or work nearby, ensuring that developments provide a high standard of amenity for existing and future users.

Biodiversity, Protected Species and their Habitats.

25. The Council's fourth reason for refusal relates to the failure to provide sufficient information to demonstrate that the scheme would not harm biodiversity, protected species, their habitats, and that appropriate mitigation can be provided.
26. The appellant has submitted a detailed Preliminary Ecological Appraisal (PEA). The PEA makes a range of recommendations, including the submission of further surveys in relation to reptiles and badgers to determine whether they are present on the site. The PEA also recommends the submission of a biodiversity impact assessment and net gain calculation prior to the submitting of the application.
27. Circular 06/05 (Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within the Planning System) states that it is essential that the presence or otherwise of protected species and the extent that they may be affected by proposed development should be established before planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.
28. Having regard to the evidence before me, I find the nature of the proposal, and the suitability of the site to support biodiversity and protected species, means that a precautionary approach is required.
29. For the above reasons, I therefore conclude that sufficient information has not been provided to demonstrate that there would be no unacceptable harm to the biodiversity interests of the site. The proposal would therefore be contrary to CCS Policy CS13, ELP Policy EV6 and Framework paragraph 180. These policies, taken together, amongst other things, seek to conserve and enhance

the natural environment for its own value, supporting development which protects biodiversity.

Heritage Balance

30. The PPG² advises that public benefits may follow from many developments and could be anything that delivers economic, social or environmental objectives as described in the Framework.
31. The Council has advised that it currently cannot demonstrate a deliverable five year supply of housing land³. The appeal proposal would add 4 further dwellings to the Council's housing stock, positively contributing to the Government's objective of significantly boosting the supply of homes. Future residents would contribute to the vitality of the rural community and would be able to easily access the local primary school, public house and bus route by sustainable transport modes.
32. There would also be some economic benefits resulting from the development, including the creation of jobs during construction, and new residents supporting local services and businesses, as well as financial benefits from increased New Homes Bonus and Council tax receipts. Taken together, given the small scale of the proposal, the identified benefits weigh moderately in favour of the development.
33. Framework paragraph 199 requires that, when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. I, therefore, attribute great weight to the conservation of the listed buildings within the Bybrook Farm complex, and to the conservation of the TCA, understanding that heritage assets are an irreplaceable resource. Accordingly, I also give great weight to the identified less than substantial harm to these heritage assets. The public benefits of the scheme, even if taken together, do not outweigh the identified harm to the designated heritage assets.

Planning Balance

34. Framework Paragraph 11 states that, in instances where the local planning authority cannot demonstrate a five year supply of deliverable housing sites, permission should be granted unless the application of policies in the Framework that protect assets of particular importance provide a clear reason for refusing the development. Footnote 7 of the Framework specifies that designated heritage assets are included within such protected assets. Given my findings with regards to the harm to the significance of the TCA and the Bybrook Farm complex listed buildings, the Framework therefore provides a clear reason for refusing the proposal, and the so-called tilted balance does not apply in this case.
35. Paragraph 219 of the Framework makes it clear that due weight should be given to existing policies according to their consistency with the Framework. The Framework seeks to protect heritage assets, achieve development that is sympathetic to local character and history, and to protect and enhance

² Paragraph: 020 Reference ID: 18a-020-20190723 - Revision date: 23 07 2019

³ 4.27 years supply as of 1 April 2023

biodiversity. Therefore, the conflict between the proposal and the identified relevant development policies in these regards should be given significant weight.

36. Weighing against these negative impacts are the public benefits listed above in the heritage balance which, taken together, are afforded moderate weight.
37. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications and appeals must be determined in accordance with the development plan unless material considerations indicate otherwise. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding.

Conclusion

38. For the reasons above, the appeal is dismissed.

S D Castle

INSPECTOR