



Appeal Decisions

Site visit made on 30 May 2023

by F Cullen BA(Hons) MSc DipTP MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 30 January 2024

Appeal A Ref: APP/P2935/W/22/3309652

4-5 Front Street, Capheaton, Newcastle Upon Tyne, NE19 2AQ

- 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 Willy Browne-Swinburne, Capheaton and Chollerton Estate against the decision of Northumberland County Council.
 - The application Ref: 21/03396/FUL, dated 20 August 2021, was refused by notice dated 29 April 2022.
 - The development proposed is construction of 3no. residential cottages with associated garages, access, car parking and landscaping and the demolition of existing outbuilding(s) and extension(s) to 4 & 5 Front Street with replacement extension(s) and internal alterations.
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Appeal B Ref: APP/P2935/Y/22/3309733

4-5 Front Street, Capheaton, Newcastle Upon Tyne, NE19 2AQ

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Mr Willy Browne-Swinburne, Capheaton and Chollerton Estate against the decision of Northumberland County Council.
 - The application Ref: 21/03397/LBC, dated 20 August 2021, was refused by notice dated 29 April 2022.
 - The works proposed are demolition of existing outbuilding(s) and extension(s) to 4 & 5 Front Street with replacement extension(s), internal alterations and alterations to boundary walls.
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Decisions

1. **Appeal A:** The appeal is dismissed.
2. **Appeal B:** The appeal is dismissed.

Preliminary Matters

3. The two appeals concern the same scheme under different, complementary legislation. I have dealt with both appeals together in my reasoning.
4. A revised version of the National Planning Policy Framework (the Framework) was published on 19 December 2023 and updated on 20 December 2023, after the Council made its decisions. Policies within the Framework are material considerations which should be taken into account for the purposes of decision-making from the date of its publication. The parties have had an opportunity to comment on the revised Framework. I have taken the revised Framework and any comments received into account in my determination of the appeals.

5. There are inconsistencies in the submitted evidence as to the spelling of the appellant's name and company¹. The details in the headings above are taken from the application form.
6. I have taken the description of the 'works proposed' from the Council's decision notice and the appellant's appeal form² as it more accurately describes the extent and detail of this element of the proposal.
7. As part of the appeals, the appellant has submitted additional and/or revised plans in relation to i) information requested by the Council during the determination of the applications, but not received prior to the decisions being made³; and ii) the proposed extensions to Nos 4 and 5 Front Street (Nos 4 and 5)⁴, stating that their 'preference is for the original scheme', however, 'if it is considered more likely that listed building consent could be gained for such a scheme, the appellant is willing to proceed with the scheme based on the amended plans submitted with this appeal.'
8. The Procedural Guide: Planning appeals – England⁵ sets out that the appeal process should not be used to evolve a scheme. It is important that what is considered by the Inspector at appeal is essentially the same scheme that was considered by the LPA and by interested parties at the application stage. In deciding whether to, exceptionally, accept proposed amendments, as per the judgement in *Holborn Studios Ltd v The Council of the London Borough of Hackney* (2018), which refined the 'Wheatcroft principles' set out in *Bernard Wheatcroft v Secretary of State for the Environment* (1982), consideration must be given to the following two tests which must be assessed separately: 1) substantive test; and 2) procedural test.
9. The substantive test is whether the proposed amendment(s) involves a 'substantial difference' or a 'fundamental change' to the application that would ultimately result in a 'different application.' A 'substantial difference' or a 'fundamental change' could also be as a result of a series of small, incremental changes to a scheme. If it is concluded that the amendment(s) would result in a 'different application', then it is unlikely that it or they could be considered as part of the appeal. The procedural test is whether, if accepted, the proposed amendment(s) would cause unlawful procedural unfairness to anyone involved in the appeal and, if so, whether such unfairness could be cured, for example by re-consultation.
10. It could reasonably be concluded that the proposed amendments presented in the additional and/or revised plans do not involve a 'substantial difference' or a 'fundamental change' to the proposed development and works. However, taken together, they do include a number of small changes to the proposal⁶ that was originally submitted. I consider that this results in 'different' applications to those which the Council considered and determined. Consequently, they do not pass the substantive test.

¹ Name given as: Mr Willy Browne-Swinburne; Mr William Browne-Swinburn; and Mr William Brown Swinburne. Company given as: Capheaton and Chollerton Estate; Capheaton and Chollerton Estates; and Capheaton and Chollerford Estates.

² Application Ref: 21/03397/LBC and Appeal Ref: APP/P2935/Y/22/3309733.

³ Access and Parking Plan (20026-P-17RvA); Refuse Plan (20026-P-18); Revised landscaping plan (20026-P-19RvC); Surface water and drainage plan (20026-P-20RvA); and Cottage C Roof Plan (20026-P-21).

⁴ A 'set of plans' is referred to by the appellant, but the only plan submitted is, Proposed front and rear elevations 4&5 Front Street (20026-P-08 RvB) (amended scheme reducing height of extensions).

⁵ Dated 11 January 2024. Section 16, Paragraph 16.1.

⁶ These include changes to extensions to Nos 4 and 5, changes to boundary treatment and additional landscaping.

11. The appeals procedure has given the Council and any interested parties the opportunity to view and comment on the proposed amendments, and additional comments by the County Ecologist, County Highways Department and County Building and Conservation Officer are included in the Council's Appeal Statements. However, there is nothing before me which confirms that the comments were the result of any formal re-consultation. Moreover, the comments are limited in content and detail, with only the County Ecologist specifically referring to one of the additional plans submitted.
12. Given the above, I cannot be sure that it would be procedurally fair to accept the proposed amendments set out in the additional and/or revised plans, and I am unable to conclude that they pass the procedural test. This potential unfairness may be cured by re-consultation. However, given my conclusion that the proposed amendments do not pass the substantive test, I have not pursued this matter further with the parties.
13. Consequently, I do not accept the proposed amendments as shown on the additional and/or revised plans, and I have determined the appeals on the applications, incorporating plans and information, that were submitted to the Council, which it considered, consulted upon and determined.
14. The proposal concerns listed buildings and their settings; the settings of other designated heritage assets; and a conservation area. The Council's reason for refusal relating to heritage matters and the application for planning permission specifies harm to Nos 4 and 5 and its setting, the setting of the adjacent Grade II listed terraces and Old Joiners Shop and the character and appearance of the Capheaton Conservation Area (the CCA). Whereas its reason for refusal relating to heritage matters and the application for listed building consent cites harm to the designated heritage assets, without explicitly identifying the assets. In relation to both decisions, the Council's Appeal Statements confirm that the cited failure of the proposal to preserve the setting of The Old Joiners Shop⁷ can be removed from its objection.
15. Sections 16(2), 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (The Act), require me to have special regard to the desirability of preserving the listed buildings or their settings or any features of special architectural or historic interest which they possess; and pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.
16. Having regard to the above, the parties' evidence and my observations on site, I have focused my considerations of heritage matters on the designated heritage assets of the Grade II listed buildings of Nos 4 and 5⁸, Garden Wall and Gatepiers to East of No. 4 (Wall to E of No 4)⁹, 1-3 Front Street (Nos 1-3)¹⁰ and 6-8 Front Street (Nos 6-8)¹¹, and the CCA. I have dealt with the other designated heritage assets in proximity to the appeal site (the site) under Other Matters below. As the perceived effects of the proposal on the assets to be assessed as part of the main issue are considered by both parties in their respective evidence, I am satisfied that their interests are not prejudiced by this approach.

⁷ List Entry Number: 1042790.

⁸ List Entry Number: 1303804.

⁹ List Entry Number: 1042794.

¹⁰ List Entry Number: 1370679.

¹¹ List Entry Number: 1154465.

17. The second and third reason for refusal relating to the application for planning permission overlap in terms of the alleged effects of the proposal on the character and/or appearance of the village, which is a designated conservation area. I have therefore considered these reasons for refusal together as part of the fourth main issue below.

Main Issues

18. The main issues in Appeal A are:

- Whether the proposal would provide a suitable location for development, having regard to the spatial strategy for the area;
- Whether the proposal would provide suitable arrangements for car parking, access, refuse collection, surface water drainage; and the promotion of walking, cycling and public transport; and
- The effect of the proposal on biodiversity.

19. A further main issue in Appeal A and the main issue of Appeal B is:

- Whether the proposal would: i) preserve the Grade II listed buildings, Nos 4 and 5 and Wall to E of No 4, or their settings or any features of special architectural or historic interest which they possess; ii) preserve the settings of adjacent listed buildings; and iii) preserve or enhance the character or appearance of the CCA.

Reasons

20. The site is located within the small, rural village of Capheaton. It is a rectangular parcel of land incorporating two cottages, Nos 4 and 5, and their curtilages; boundary treatments including stone walls and post and wire fences; and an area of, what is described as, semi-improved grassland.
21. The proposal involves two main elements. The construction of three single storey cottages: a pair of cottages (Cottages A and B, both 3-bedroom) on the land between Nos 5 and 6 Front Street, and a detached cottage (Cottage C, 4-bedroom) on the land between Nos 3 and 4 Front Street; and the demolition of existing extensions and outbuildings to Nos 4 and 5 and construction of new rear extensions and additional internal works and external refurbishment. Associated with both elements are the creation of a one-way vehicular access, parking spaces and the construction of five garages/storage buildings, all at the rear; installation of new boundary treatments; and alterations to existing front boundary walls and construction of pavement in front of boundary walls.

Suitable location for development

22. Policy STP 1 Spatial Strategy (Strategic Policy) of the Northumberland Local Plan 2016-2033, adopted March 2022 (the NLP) is relevant. The Policy seeks to deliver sustainable development which enhances the vitality of communities across Northumberland, supports economic growth, and which conserves and enhances the County's unique environmental assets.
23. Capheaton is identified within the NLP as a 'Small Village'. The defined settlement boundary is drawn fairly tightly around the village, principally taking in Capheaton Hall and associated buildings/structures, the Village Hall and the majority of the buildings and their curtilages that face Front Street. The

- settlement boundary runs through the length of the site, resulting in part of the site falling within, and part of the site falling outside, the defined settlement.
24. Part (d) of Policy STP 1 concerns Small Villages stating, 'In order to support the social and economic vitality of rural areas, and recognising that development in one village can support services and facilities in other nearby villages, Small Villages listed in Appendix A will support a proportionate level of development subject to Green Belt policy considerations where relevant.'
25. Supporting text to the Policy at Paragraph 4.38 states that, 'While the Local Plan does not actively direct development to small villages, it is recognised that a level of development is required in rural areas to support social and economic vitality, and that development in one village can support services and facilities in another nearby. In small villages not identified as Main Towns, Service Centres or Service Villages, small scale development will be supported subject to Green Belt policy where relevant and a number of criteria.'
26. What constitutes a 'proportionate level of development' is not defined or elaborated on within the NLP. The appellant sets out that an additional three dwellings would result in a net increase in dwellings of just over 10%, which they contend 'would seem a reasonable amount of growth over the Plan period.'¹² However, this part of the proposal would involve much more 'development' within and just outside the settlement boundary, than just the dwellings themselves, namely, garages/storage buildings, refuse storage areas, access route, car parking spaces and new boundary treatments.
27. On this basis, I am not satisfied that the 'development' would be of a 'proportionate level' relative to the size of this Small Village. Even if assessed solely on the basis of the proposed dwellings / development located within the settlement's defined boundary, in my judgement, it would still be of a disproportionate extent. As such, there would be conflict with Policy STP 1 (d) of the NLP.
28. In its assessment of the proposal, the Council also references Part (e) of Policy STP 1. Part (e) sets out that 'Sustainable development will be supported within Green Belt inset boundaries and within settlement boundaries defined on the Local Plan policies map or in neighbourhood plans.' It goes on to state that 'Sustainable development within, or immediately adjacent to the built up form of Main Towns, Service Centres, Service Villages, and Small Villages without defined Green Belt inset boundaries or settlement boundaries will be supported, subject to Green Belt policy considerations where relevant, if it is: i. Commensurate with the size of the settlement; and ii. Reflects the role and function of the settlement; and iii. Does not adversely impact upon the character and appearance of the settlement; and iv. Does not adversely impact upon the setting of the settlement or the surrounding countryside.
29. Given that the Small Village of Capheaton has a defined settlement boundary, I concur with the appellant in that, this part of the policy is not relevant to the appeals proposal. Nonetheless, even if I considered part (e) to be relevant in this respect, given my conclusions on the other main issues, the proposal would not meet all of the required criteria of part (e) and would not constitute 'sustainable development'.

¹² On the basis of 27 dwellings within Capheaton.

30. I acknowledge that there is limited capacity and few feasible locations for the settlement of Capheaton to accommodate new development. However, the NLP is clear in that it does not actively direct development to Small Villages. Moreover, whilst Policy STP 1 supports a proportionate level of development in these locations, I have not been directed to any part of the Policy which 'expects' all identified Small Villages to accommodate new development.
31. Accordingly, I conclude that the proposal would not provide a suitable location for development, having regard to the spatial strategy for the area. As such, it would conflict with Policy STP 1 of the NLP referred to above and the provisions within the Framework regarding the location of development.

Arrangements for car parking, access, refuse collection, surface water drainage; and the promotion of walking, cycling and public transport

32. The Council asserts that the information and plans submitted with the applications do not provide adequate detail regarding car parking within the site, access arrangement details, refuse collection or surface water drainage. Moreover, that the proposal does not include the promotion of walking, cycling and public transport¹³.
33. The appellant submits that the additional and/or revised plans submitted with the appeal address these matters. However, for the reasons set out above, I have not accepted these and determined the proposal on the information and plans submitted with the application.
34. Accordingly, in the absence of this information, I am unable to conclude whether the proposal would provide suitable arrangements for car parking, access, refuse collection, surface water drainage; and the promotion of walking, cycling and public transport. As such, I cannot be certain that it would comply with Policies HOU 9, TRA 1, TRA 2 and TRA 4 of the NLP, in so far as they seek to provide functional space and facilities for refuse and recycling storage; maximise the use of sustainable modes of Transport; provide effective and safe access and egress to the existing transport network; and provide parking in accordance with the NLP standards. In addition, I cannot be sure that it would accord with the relevant provisions within the Framework regarding planning and flood risk and promoting sustainable transport.

Biodiversity net gain

35. Policy ENV 2 of the NLP sets out that development proposals affecting biodiversity, will minimise, mitigate and/or compensate for their impact, and secure a net gain for biodiversity. This echoes relevant provisions within the Framework including Paragraphs 180 and 186 which state 'decisions should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity', and 'opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity.'
36. The Council asserts that approximately 1/3 of a hectare of semi-improved grassland as well as a small pond used by amphibians would be lost due to the proposal. Although mitigation measures are referred to by the appellant in their

¹³ In line with the Council's Highways Department Consultee Response dated 30 September 2021.

Ecological Impact Assessment (Ecological report)¹⁴, the plans submitted with the application show only the inclusion of example bat boxes on the new dwellings. Consequently, the proposal, as presented, would result in a net loss for biodiversity, with no net gain for biodiversity secured. The Council's County Ecologist consultee response¹⁵ details how net gains for biodiversity could be achieved.

37. The appellant submits that the size of the area of semi-improved grassland lost due to the proposal would be 0.16 of a hectare, much less than the Council's estimation. They stress that the Ecological report identifies no major ecological constraints; concludes that, without any mitigation, the proposal would result in low negative impact on the vegetation and wildlife present; and proposes the use of locally native species and pollinator friendly species 'where possible' and the installation of bat boxes, as mitigation and enhancement measures.
38. Taking the above into account, whilst I have not accepted the additional and/or revised plans submitted with the appeal, I am satisfied that the concerns raised by the Council in this regard could be addressed by the imposition of an appropriately worded condition(s). I also note the appellant's willingness to agree to a condition which would secure additional planting elsewhere on the estate.
39. Consequently, I conclude that the proposal would result in biodiversity net loss. However, subject to the imposition of an appropriately worded condition(s), a scheme could be achieved that would secure a net gain for biodiversity. On this basis, the proposal would be capable of according with Policies ENV 2 and STP 3 of the NLP, in so far as they require proposals to secure and/or contribute to net gains for biodiversity. It would also be capable of complying with the provisions within the Framework which seek to conserve and enhance the natural environment.

Heritage assets

Special interest and significance

40. The site encompasses the Grade II listed buildings of Nos 4 and 5 and Wall to E of No 4. The Grade II listed buildings of Nos 1-3 and Nos 6-8 lie to the east and west of the site respectively. The site is also located within the CCA.
41. The site and surrounding area are undoubtedly complex in heritage terms and thus highly sensitive to change. In considering any effects of the proposal, I have had regard to the Framework's definitions of 'significance (for heritage policy)¹⁶ and 'setting of a heritage asset'¹⁷; as well as relevant guidance by Historic England cited by the appellant¹⁸.

¹⁴ Ruth Hadden, BSc. MCIEEM, Ryal Soil and Ecology, Ecological Impact Assessment, dated July 2021.

¹⁵ Dated 1 November 2021.

¹⁶ The value of a heritage asset to this and future generations because of its heritage interest. The interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting.

¹⁷ The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.

¹⁸ Historic England: Conservation Principles, 2008; Historic England: Advice Note 2, Making Changes to Heritage Assets; and Historic England: Historic Environment Good Practice Advice in Planning: 3, The Setting of Heritage Assets, 2017. The importance of a heritage asset's setting lies in what it contributes to the significance of the asset or to the ability to appreciate that significance.

42. Capheaton is a small, predominantly linear, village situated on an area of level land partway up a slope that rises from south to north. The submitted evidence sets out that the village was started in its current form in the mid-late 18th century. The buildings, which were not all constructed at the same time and display subtle differences in their detailed design, were developed by Sir Edward Swinburne, primarily for estate workers of Capheaton Hall.
43. The appellant's Heritage Statement¹⁹ repeatedly refers to Capheaton as a 'planned', 'model', 'planned model' or 'planned model estate' village. Although this is contradicted to a degree by the appellant's Supplementary Heritage Appeal Statement²⁰ and final comments which state that Capheaton is 'loosely described as a model village', 'is not a model estate village with a distinctive planned layout' and that 'there is no evidence that this is a planned model village.' Nonetheless, an extract from Pevsner cited by the appellant²¹ and listing descriptions for designated heritage assets in the locale, provide support to the 'model' and 'planned' nature of the settlement as an estate village.
44. Related to the above, I note the appellant's comments on the open spaces which separate the listed buildings of Nos 1-3, Nos 4 and 5 and Nos 6-8. They submit that there is no evidence that the spaces were deliberate as part of the village's planned layout or crucial to its design, and conclude that they are 'probably incidental rather than a conscious design decision' and of 'dubious heritage significance.'
45. Nonetheless, conversely, there is no substantive and/or compelling evidence before me that the spaces were not part of Capheaton's planned layout or that they were 'left for future development'. Whether consciously planned or fortuitously created, these spaces have remained historically undeveloped, are part of Capheaton's evolution and have become an established component of the village.
46. The village is set within an eminently rural landscape, made up of open pastoral fields separated by hedge or stone wall field boundaries and interspersed by individual farmsteads and pockets of woodland. This complements and provides a distinctive context to the settlement.
47. The Grade II listed building of Nos 4 and 5 occupies a prominent back of pavement position facing Front Street. It comprises two single storey cottages, which date from the late 18th century. The building is constructed of dressed stone with ashlar dressings and a graduated Lakeland slate roof. It has been altered internally and externally in the 19th and 20th centuries.
48. From the evidence before me, the building's special interest and significance mainly stem from its illustration of late-18th century, rural estate domestic architecture; its restrained architectural style; and its group value. Important contributors in these regards which are pertinent to the appeals, are its use of traditional materials and methods of construction; surviving historic fabric; legibility of its historic plan-form; and its contribution to the composition of the planned estate village associated with Sir Edward Swinburne. These key factors have not been unduly diminished by the changes to the asset over time. In addition to the above, the building's largely open and verdant setting, from

¹⁹ Heritage Statement for Proposed Development at Capheaton Village. Hinchliffe Heritage, 4 August 2021.

²⁰ Hinchliffe Heritage, October 2022.

²¹ Buildings of England: Northumberland, Pevsner.

which it can be experienced and its heritage merit appreciated, also positively contributes to its special interest and significance.

49. The Wall to E of No 4, also dating from the late 18th century, partly encloses the land at the side of No 4. Constructed of dressed stone with flat coping, it is ramped down on both sides of the gateway which has simple arched piers. It forms a robust perimeter feature, consistent with other traditional boundary treatments in the area, including the stone boundary wall to the West of No 5.
50. From the submitted evidence and relevant to the appeals, this asset's special interest and significance are largely derived from its construction, both material and method; surviving historic fabric and alignment; and its contribution to the composition of the planned estate village associated with Sir Edward Swinburne. Its generally open and verdant setting also makes a positive contribution in these regards.
51. Similar to Nos 4 and 5, the Grade II listed buildings of Nos 1-3 and Nos 6-8 occupy prominent back of pavement positions facing Front Street. Both comprise three single storey cottages, which date from the late 18th century, and both are constructed of dressed stone with a graduated Lakeland slate roof. Nonetheless, there are slight differences in the design detail of the three listed buildings. Unlike Nos 4 and 5, both Nos 1-3 and Nos 6-8 incorporate wood brackets that support widely-overhanging eaves, although the detail of these features also differ between the two short terraces. Nos 1-3 has been extended at the rear with traditional, mono-pitch lean to extensions, and, following the grant of planning permission and listed building consent in 2018, Nos 6-8 has been refurbished and extended at the rear.
52. From the evidence before me and similar to Nos 4 and 5, the special interest and significance of Nos 1-3 and Nos 6-8 are largely derived from their illustration of late-18th century, rural estate domestic architecture; their pleasing architectural style; and their group value. Apposite to the appeals are their contribution to the composition of the planned estate village associated with Sir Edward Swinburne; and their largely open and verdant settings. The spaces which separate the three listed buildings and form part of the site, are part of Nos 1-3's and Nos 6-8's immediate setting. These areas of open land allow the assets' and their heritage value within Capheaton to be experienced. The spaces positively contribute to both their significance as heritage assets and the ability to appreciate that significance.
53. The CCA encapsulates the majority of the village, taking in the main route of Front Street; the buildings and land which lie to the north of this highway; and Capheaton Hall with its immediate grounds and associated buildings. The special interest and significance of the CCA relevant to the appeals predominantly stem from the settlement's layout pattern, form and materials, as a planned estate village, incorporating key development characteristics such as back of pavement positions fronting the highway, modest scale and design, and the use of natural stone and slate. In these respects, the historic buildings and their associated spaces, boundary treatments and floorscape, all set within an open and verdant agrarian context, combine to create a distinctive villagescape and strong sense of place.
54. By virtue of their historic and architectural integrity and authenticity, Nos 4 and 5, Wall to E of No 4, Nos 1-3 and Nos 6-8 add considerably to Capheaton's heritage merit. In doing so they positively contribute to the character and

appearance of the CCA as a whole and thereby to its significance as a designated heritage asset.

Effects

55. Paragraph 205 of the Framework states 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 (and the more important the asset the greater the weight should be). Paragraph 206 goes on to advise that significance can be harmed or lost through alteration or destruction of the heritage asset or from development within its setting and that this should have clear and convincing justification.
56. With regard to the proposed new dwellings, I recognise that a large part of the special interest and significance of Nos 4 and 5, Wall to E of No 4, Nos 1-3 and Nos 6-8 stem from their physical presence and historic fabric, which would remain unaffected by this element of the proposal. Furthermore, that some of the immediate setting and most of the wider setting that contribute to the special interest and significance of these assets would remain undisturbed by the proposal.
57. Nonetheless, the introduction of substantial built form and development in terms of the new cottages and garages/storage buildings, access route and new boundary treatments, would markedly reduce the open and undeveloped qualities of the spaces between Nos 3 and 4 and 5 and 6 Front Street.
58. This would fundamentally alter an important characteristic of the immediate settings of Nos 4 and 5, Wall to E of No 4, Nos 1-3 and Nos 6-8, undermining the ability to appreciate their heritage merit, individually and as a group, and weaken the authenticity of how they are experienced within the village. Consequently, this would notably lessen the positive contribution that the settings of these assets make to their significance, as well as reduce the ability to appreciate that significance.
59. I acknowledge that the new cottages' single-storey height, use of natural stone and slate, timber doors and fenestration to front and incorporation of traditional architectural features such as stone quoins, watertabling and kneelers, would echo the general design and materials of adjacent historic properties. However, they would occupy far greater footprints than those of the neighbouring traditional cottages. The incorporation of projecting gables, which from the evidence before me is not a common architectural feature of buildings in the area, would give an undue prominence to the rear elevation of the cottages. This would be enhanced by the arbitrary incorporation of cedar cladding and aluminium window frames into or between these elements, giving rise to an uncomfortable mix of styles.
60. The demolition of existing outbuilding(s) and extension(s) to Nos 4 and 5 would result in the removal of later 20th century additions which are of minimal architectural and historic interest and the high quality repair and refurbishment of the asset. These works would have the potential to better reveal the historic form of the listed building and sustain its special interest. However, these works would also include the loss of 19th century fabric. I also note the loss of what is likely to be historic fabric in the creation of new window openings and new door openings, which are not referenced on the proposed existing and

demolition plan. This irreversible loss of historic fabric would, of itself, be harmful to the building's special interest and significance.

61. The proposed joined extensions at the rear of Nos 4 and 5 would be of a minimalist contemporary design. However, they would be of a size and scale that would compete with and detract from the modest dimensions and form of the historic host building. Whilst they would be considerably set in from the gable ends of the cottages, their excessive height and depth, would result in a cumulatively dominant addition incorporating an awkward junction with the rear pitch of the roof. Moreover, whilst the additions would be clad in a natural material of larch or cedar vertical boards with limited panels of charred and oiled larch cladding between large picture windows, their distinctive variance to the predominant material of stone would intensify their discordance.
62. Other refurbishment works are proposed to Nos 4 and 5, including the installation of insulated wall lining, replacement of windows with double-glazed vertical sliding sash units and repointing. However, no detail is provided. I note the appellant's claims that these works would be carried out to a high conservation standard. Nevertheless the lack of information regarding these elements is a deficiency of the proposal and compounds my concerns.
63. The proposed works to Wall to E of No 4 would include its sensitive repair which would sustain its special interest. However, they would also involve its realignment to allow vehicular access to the rear of the site. Even though, subject to the existing fabric being salvaged and reused, these works would not result in the loss of historic fabric, they would negatively alter the integrity of the asset and the authenticity of how it is experienced.
64. In terms of Nos 4 and 5, Wall to E of No 4, Nos 1-3 and Nos 6-8, the identified harmful effects of the new cottages would be readily apparent when viewed from Front Street, and to a lesser degree in longer range views from Silver Hill. The alteration of the Wall to E of No 4 would also be conspicuous in views from Front Street. Whilst the identified harm to Nos 4 and 5 would only be visible in longer range views from Silver Hill or from adjacent private spaces, listed buildings are safeguarded for their inherent architectural and historic interest irrespective of whether or not close public views of the building can be gained.
65. The harmful effects of the proposed development and works identified above would undoubtedly feed through to the character and appearance of the CCA as a whole. Rather than creating a 'more complete' and 'cohesive' street frontage, the introduction of three substantial dwellings resulting in the effective loss of the existing spaces between the three short terraces would harm an established and positive trait of the village's historic and existing street scene. The reduction in the open and verdant quality of the rest of the site arising from the associated development of garages/storage buildings, refuse storage areas and access road would add to this harm.
66. The set back position of the new dwellings would jar with the locally distinctive back of pavement location of the historic properties in the locale. Moreover, any degree of subservience that the set back would provide, would be moderated by their substantial size, scale and massing, relative to the modest adjacent cottages. As referenced above, whilst aspects of the new dwellings would reflect their neighbours when viewed from Front Street, their discordant size along with their uncharacteristic form, design and materials at the rear would mean that they would not assimilate well into the spaces or the area.

The incorporation of 1.8m tall close boarded timber fences, subdividing the land between the properties would also add a dominant and incongruous suburban feature into this rural context.

67. In terms of the listed buildings, if the special interest and significance of such important components of the CCA are harmed in the ways outlined above, it logically follows that there would be some associated harm to the character and appearance of the area.
68. I acknowledge that change to a heritage asset does not automatically result in harm to its significance and change can also be positive or neutral and it only becomes harmful if the identified special interest is eroded. Also, conservation is an active process of managing change to heritage assets in ways that sustain, reveal or reinforce their heritage interests. However, in all of the respects outlined above, the proposal would markedly weaken the heritage interests of the relevant designated heritage assets and erode their identified special interest and significance.
69. Overall, I conclude that the proposal would not: i) preserve the Grade II listed buildings, Nos 4 and 5 and Wall to E of No 4, or their settings or any features of special architectural or historic interest which they possess; ii) preserve the settings of adjacent listed buildings; and iii) preserve or enhance the character or appearance of the CCA. It would therefore fail to satisfy the requirements of sections 16(2), 66(1) and 72(1) of the Act and in doing so would cause harm to the significance of the designated heritage assets.

Public benefits and heritage balance

70. I note the appellant's conclusions in the Heritage Statement that there would be Neutral, Net Neutral or Beneficial effects to the relevant heritage assets, and that, cumulatively, the proposals would have a considerable net beneficial impact on the heritage assets and their settings, generating a net enhancement in the heritage significance and appearance of the heritage assets²².
71. Nonetheless, neither the Act nor the Framework require decision makers to carry out a 'net' or 'internal' balance of heritage-related benefits and harm as a self-contained exercise prior to a wider public benefit assessment as per the Framework. I have found harm to the significance of designated heritage assets, therefore the requirement to carry out a balance as prescribed in the Framework is engaged.
72. With reference to Paragraphs 207 and 208 of the Framework, in finding harm to the significance of a designated heritage asset, the magnitude of that harm should be assessed. Given the extent and fairly localised nature of the proposal, I find that the harm to the significance of the designated heritage assets assessed above would, individually and cumulatively, be 'less than substantial.'
73. Notwithstanding the above, the appellant does not dispute that less than substantial harm would exist, although they contend that it would be at the lower end of the scale. Furthermore, that this harm would be outweighed by the significant public benefits that would be delivered as a result of the proposal.

²² Section 8.7 and Summarised in Table 4.

74. Decision makers are not obliged to place the harm that would be caused to the significance of a heritage asset, or its setting, somewhere on a 'scale' in order to give the necessary great weight to the asset's conservation. The Framework's division of harm into categories of 'substantial' or 'less than substantial' is adequate to carry out the weighted balancing exercise to determine whether a planning proposal is acceptable. In any event, a finding of less than substantial harm does not amount to a less than substantial planning objection and carries considerable importance and weight.
75. Paragraph 208 of the Framework requires this harm to be weighed against the public benefits of the proposal including, where appropriate, securing the asset's optimum viable use. In considering the public benefits arising from the proposal I have had regard to the Bramshill judgement²³ cited by the appellant and advice given in the Planning Practice Guidance²⁴.
76. The proposal would contribute three new family dwellings to the overall housing supply and housing mix in the area, as well as improve existing housing stock within the village. Economic and social benefits would flow from the construction phase of both aspects of the proposal, including the employment of local tradesmen/craftsmen, as well as from the occupation of the properties. It is also likely that future occupiers would support local services and facilities, potentially assisting the vitality and viability of the village and its community and/or other villages nearby.
77. Heritage and environmental benefits would accrue from the repair and refurbishment of Nos 4 and 5, including the removal of poor quality additions and energy efficiency improvements; the repair of Wall to E of No 4; the reinstatement of traditional pavements; and landscaping (secured by condition). An additional heritage benefit cited by the appellant is that the sale proceeds arising from the proposal would allow them to continue to fund conservation work around the wider Capheaton estate, principally, the on-going restoration and conservation of Capheaton Hall, a Grade I listed building of the highest significance. Given my findings under 'Effects' above, I do not consider 'the introduction of a more cohesive streetscape to the village' to be a public benefit.
78. I accept that the positive outcomes identified above would facilitate the delivery of the main objectives of the planning system as outlined in the Framework and represent benefits to the public at large. I am also aware of the Framework's requirement to give significant weight to the need to support energy efficiency improvements²⁵, whilst also applying policies set out in chapter 16.
79. Nonetheless, although the proposal would contribute to the appellant's long term vision and investment into creating a sustainable, healthy and viable community at Capheaton and potentially attract new families into the village, there is no evidence before me that the social or economic vitality of the village are vulnerable. Furthermore, no detail has been provided in respect of any investment that the proposal would potentially make to Capheaton Hall and/or the wider estate, or of any mechanism that would secure it. This moderates the weight these stated benefits carry in the balance.

²³ *City & County Bramshill Limited v SSHCLG & Others* [2021] EWCA Civ 320.

²⁴ Planning Practice Guidance: Paragraph: 020 Reference ID: 18a-020-20190723.

²⁵ Paragraph 164.

80. In relation to the proposed development and works to Nos 4 and 5, there is no compelling evidence before me which demonstrates that they are fundamentally necessary to secure the listed building's ongoing residential use. Nor am I persuaded that the only way of securing the benefits identified would be via the appeals proposal. Although the building may not meet the space standards required for family dwellings, it has not been shown that it would not be useable or viable for occupation by other users/households, or that its conservation as a designated heritage asset would be at risk if the appeals were to fail and the proposal, as submitted, was not implemented.
81. In all of the above respects, clear and convincing justification has not been provided for the identified harm to the significance of designated heritage assets. Overall, the weight I ascribe to the public benefits which would accrue from the proposal, is not sufficient to outweigh the considerable importance and weight I attach to the harm I have found.

Overall conclusion on heritage assets

82. Drawing all of the above together, I conclude that the proposal would not:
- i) preserve the Grade II listed buildings, Nos 4 and 5 and Wall to E of No 4, or their settings or any features of special architectural or historic interest which they possess; ii) preserve the settings of adjacent listed buildings; and
 - iii) preserve or enhance the character or appearance of the CCA.
83. This would result in harm to the significance of these designated heritage assets, which would not be outweighed by the public benefits that would accrue from the proposal. This would fail to meet the requirements of sections 16(2), 66(1) and 72(1) of the Act and the provisions within the Framework which seek to conserve and enhance the historic environment and achieve well-designed and beautiful places.
84. It would also conflict with Policies ENV 1, ENV 7, ENV 9, QOP 1 and QOP 2 of the NLP which, together and amongst other things, require proposals to conserve and enhance the significance, quality and integrity of Northumberland's heritage assets and their settings; enhance and reinforce the local distinctiveness of conservation areas; and make a positive contribution to local character and distinctiveness, preserving the character of the area in terms of a development's physical presence and design.

Other Matters

85. The site is in proximity to a number of other listed buildings including the Grade I listed Capheaton Hall and walls attached²⁶. From the information before me the special interest and significance of these assets primarily stem from, singularly or in combination, their archaeological, historic and/or architectural interest. However, they are also derived, to a greater or lesser extent, from their respective largely open, green and rural settings.
86. Given the location and extent of the proposal in relation to these other listed buildings, I consider that the settings of these designated heritage assets would be preserved and the contribution they make to the assets' significance would not be harmed. This would meet the requirements of section 66(1) of the Act; the provisions in the Framework regarding the conservation and enhancement of the historic environment; and Policies ENV 1 and ENV 7 of the

²⁶ See Table 1, p28 Heritage Statement.

NLP, referred to above. I note the Council raised no concerns in this respect either, or, in relation to The Old Joiners Shop, removed its objection.

87. Additionally, the site lies adjacent to the Grade II Registered Park and Garden, Parkland at Capheaton Hall (the RP&G). There is no statutory duty concerning the consideration of development in respect of this type of designated heritage asset. However, I am cognisant of the relevant provisions in the Framework in this regard. No harm to the significance of the RP&G, arising from the proposed development and works within its setting, is identified by the parties. From the evidence before me, I have no reason to disagree. As such, in this respect the proposal would comply with the provisions in the Framework regarding the conservation and enhancement of the historic environment; and Policies ENV 1 and ENV 7 of the NLP referred to above.
88. My attention has been drawn to what the appellant describes as a similar development at Nos 6-8 that was granted planning permission and listed building consent in 2018²⁷ and which I was able to view on my site visit.
89. From the limited evidence provided, whilst the cited scheme involved the refurbishment and extension of Nos 6-8, with outbuildings and car parking, it included this Grade II listed building's conversion back to three cottages from multiple garages and a vacant dwelling. Additionally and importantly when compared to the proposal before me, although the extensions are of a similar contemporary form, they are notably more subservient in height and scale relative to the host listed building. Moreover, the evidence indicates that permission and consent had previously been granted for extensions to the building, albeit for a different design. For all of these reasons, the scheme cited is not directly comparable to the proposal before me, and it carries little weight in favour of the appeals.
90. In regard to the same granted scheme, I note that, at that time, the conservation officer concluded that, as the extensions would not be visible to the public and by virtue of the scale and design of the proposal, there would be no harmful effects to the setting of Nos 6-8, the character and appearance of the CCA or the setting of the RP&G. However, in my judgement, it does not automatically follow that a lack of visibility of a proposal results in a lack of harm to the significance of a designated heritage asset. It is but one consideration of many in an assessment. In any event, each proposal is judged on its own merits.
91. I note the appellant's reference to the support that the appeals proposal has from the Parish Council and within the local community and acknowledge the lack of objections in that regard. However, a lack of objection does not denote a lack of harm. This matter weighs neither for nor against the appeals and does not alter my conclusions on the main issues.

Overall Planning Balance and Conclusions

92. The benefits of the proposal are set out above in the heritage balance and carry weight in the appeals' favour. Although I have found that the proposal would result in biodiversity net loss, subject to the imposition of an appropriately worded condition(s), a scheme could be achieved that would

²⁷ Application Refs: 18/01812/FUL & 18/01813/LBC.

secure a net gain for biodiversity. This weighs neutrally in the planning balance.

93. Conversely, I have concluded that the proposal would not provide a suitable location for development, having regard to the spatial strategy for the area and have been unable to determine whether the proposal would provide suitable arrangements for car parking, access, refuse collection, surface water drainage; and the promotion of walking, cycling and public transport. Additionally, I have found that the proposal would not: i) preserve the Grade II listed buildings, Nos 4 and 5 and Wall to E of No 4, or their settings or any features of special architectural or historic interest which they possess; ii) preserve the settings of adjacent listed buildings; and iii) preserve or enhance the character or appearance of the CCA.
94. As such, the proposal would fail to meet the relevant requirements of the Act, conflict with relevant policies of the NLP and not comply with relevant provisions within the Framework. This attracts substantial weight against the appeals.
95. I have had regard to the support within the Framework for significantly boosting the supply of homes as well as the identification of opportunities for villages to grow and thrive. However, the Framework is clear in stating that heritage assets should be conserved in a manner appropriate to their significance; and that planning decisions should ensure that developments will function well, add to the overall quality of the area and are sympathetic to local character and history.
96. Although there are considerations that weigh in favour of the proposal, in my judgement, they are not sufficient to outweigh the harm I have found.
97. **Appeal A:** The proposal would conflict with the development plan when taken as a whole. Material considerations do not indicate that the decision should be taken otherwise than in accordance with the development plan. Therefore, for the reasons given, I conclude that Appeal A should be dismissed.
98. **Appeal B:** For the reasons given, I conclude that Appeal B should be dismissed.

F Cullen

INSPECTOR