



Appeal Decision

Site visit made on 30 January 2024

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 February 2024

Appeal Ref: APP/W1850/W/23/3319299

Land south west of Roman Byre, Haywood Lane, Hereford HR2 9RU

- 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 Mrs Kathryn Sharp against the decision of Herefordshire Council.
 - The application Ref 214270, dated 17 November 2021, was refused by notice dated 28 September 2022.
 - The development is described as 'Proposed erection of a single storey, low carbon dwelling of outstanding design ('Pippin Grange') and ancillary outbuildings. To include renewable technologies, reinstatement of heritage orchard and significant biodiversity enhancements'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The National Planning Policy Framework (the Framework) was revised on 19 December 2023 and is a material consideration in planning decisions. The main parties were given the opportunity to comment on the revised Framework during the appeal. Hence, I am satisfied that no one would be prejudiced by this change to the national policy context.

Main Issues

3. The main issues are:
 - The effect of the proposal on the character and appearance of the area having particular regard to the settings of relevant heritage assets, and;
 - Whether the site is a suitable location for housing development having regard to local planning policies, and;
 - If harm arises, whether this is outweighed by other material considerations.

Reasons

Character and appearance and heritage assets

4. The application site lies close to a group of listed buildings, the principal one being the Grade II* listed Haywood Lodge. Haywood Lodge is an impressive detached early 18th century house built on a symmetrical plan in red brick with a hipped slate roof. The house is set back from the road but presents its principal elevation towards it. The symmetrical arrangement is reinforced by

the grandeur of the wrought iron gates, gate piers and railings along its frontage, which are separately listed (Grade II).

5. A cider house and stable are positioned on a rectangular plan ending with a circular hop kiln and perpendicular to Haywood Lodge. This grade II listed building originates from the late 18th and late 19th centuries. The list entry notes that the building houses a complete cider mill and cider press.
6. Approximately 75 metres to the north of Haywood Lodge is another Grade II listed building, comprising the former pig sties dating from about 1848. The single storey stone building has been converted to holiday accommodation.
7. In making my determination I am mindful of the duty in section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) to have special regard to the desirability of preserving listed buildings, or their settings or any features of special architectural or historic interest they possess.
8. All the listed buildings mentioned derive special interest and significance from the quality of their architecture and historic fabric. The aesthetic quality of Haywood Lodge and gates is synonymous with the high status of the dwelling, and contrasts with the plainer and more functional appearance and informal architecture of the cider house, stable, hop kiln and former pig sties.
9. Together they form an important historic group which reveals how the wider estate and land associated with Haywood Lodge evolved and was used in the past. Hence, further historic value is derived from their arrangement and inter-relationship between each other and the landscape. This configuration tells a social and economic story about the structure of rural society and agricultural practices over time. Accordingly, the rural and agricultural surroundings of the listed buildings enhance an appreciation of that history. As such, the setting of the listed buildings forms an important component of their special interest and significance.
10. This is recognised in the Heritage Statement provided¹ which describes Haywood Lodge and its associated outbuildings and former farm buildings as an important historic group of great quality and character with links to their landscape setting.
11. From the historic mapping provided it is reasonably clear that the appeal site formed part of an orchard proximate to Haywood Lodge. Although there are now fewer trees, the land at the appeal site remains open and largely devoid of built form. Notwithstanding that it is described as garden curtilage, the extent and nature of boundary hedgerows and grassland means the land has an informal appearance and character redolent of an agricultural field. This is confirmed in the Heritage Statement².
12. It is highly probable that apples from the former orchard on the appeal site contributed to cider making in the cider house, and some were used to feed pigs, thereby connecting the appeal site with the historic use of the listed farm buildings. Hence, there is close physical proximity and likely strong past historical interrelationship between the appeal site and the group of listed buildings at and associated with Haywood Lodge.

¹ Prepared by Sam Hale, Historic Building Consultancy, June 2021, Rev Nov 2021, Page 4

² Page 17

13. Furthermore, my observations of the appeal site were that its historic shape, and undeveloped rural nature, with a general absence of built form contributes positively to the settings of Haywood Lodge and gates, the cider house, stable and hop kiln and the former pig sties. Moreover, those qualities contribute to the legibility of the historic landscape character of the area immediately surrounding the listed buildings and allow for an appreciation of the significance of the group. My finding on this point is generally reinforced by the consultation response received from Historic England and dated 6 January 2022.
14. Therefore, the appeal site makes a positive contribution to the rural character and appearance of the area. Additionally, by making a valuable contribution towards their settings, it adds to the overall significance of the four designated heritage assets identified.
15. The Council also refer to Roman Byre, Oak View, The Granary and Haywood Lodge Cottages as non-designated heritage assets, which is questioned by the appellant. The Framework stipulates that a heritage asset is one identified as having a degree of significance meriting consideration in planning decisions because of its heritage interest. Although it is not shown that these buildings are included on a local list, Planning Practice Guidance³ states that in some cases, local planning authorities may identify non-designated assets as part of the decision-making process on a planning application.
16. Based on the evidence before me, including my own observations, it is probable that these vernacular structures formed part of the wider historic farmstead that had some connection with Haywood Lodge. On that basis they possess some limited heritage interest owing to this historic significance. On balance, I find that they do constitute non-designated heritage assets that enrich the rural context surrounding Haywood Lodge. I further find that the appeal site is sufficiently proximate to Roman Byre, Oak View and The Granary so as to form part of their setting. However, this is not the case for Haywood Lodge Cottages given that they are some distance away.
17. The proposal would introduce notable new built form onto the appeal site comprising a detached dwelling, a detached garage and further workshop. The massing and scale of the dwelling takes inspiration from modern agricultural buildings and therefore, although single storey it would have a large footprint amounting to a sizeable building. Although smaller than the proposed dwelling, both the garage and workshop represent considerable domestic outbuildings, each with a pair of double doors. The presence and volume of these three buildings would harmfully dilute an important characteristic of the historically undeveloped land west of the heritage assets identified.
18. Furthermore, the proposed layout would position the largest structure deep into the site some distance to the rear of the prevailing cluster of existing built form that lies closer to the road. Consequently, built form would encroach further westwards and thereby harmfully undermine the strong rural character and appearance of the area.
19. In addition, it is proposed to create a vehicular access on land lying between Haywood Lodge and the former pig sties leading to driveways and parking to the front of the dwelling and outbuildings⁴. A large, surfaced area is shown at

³ Paragraph: 040 Reference ID:18a-040-20190723

⁴ Proposed Site Plan Drawing Nos. 3872 P(0) 030 & 050

the southwestern end of the dwelling corresponding with the extensive glazing on the rear elevation that would serve the main living and dining area. Taken in combination these features and the presence of vehicles would further erode the undeveloped and informal qualities of the appeal site. The associated human activity, vehicular movements and lighting would weaken the ability to appreciate the historic use of the site and blur the sensitive interrelationship between the listed buildings and the landscape.

20. The proposal intends to reinstate some orchard and provide meadow planting within the grounds of the proposed dwelling. I accept that this would assist in softening and screening the harmful effects I have identified to an extent. Moreover, the orchard trees would resonate with a historic use of the land. Nevertheless, this would not fully overcome my concerns, given their fundamental nature.
21. Accordingly, owing to the erosion of the rural qualities that would result from the proposal, the development would be harmful to the settings of the listed buildings and non-designated heritage assets identified.
22. In relation to the four listed designated heritage assets, this would be detrimental to a component that constitutes part of their special interest and significance. Consequently, the proposal would run counter to the expectations of the Act. In the terms of the Framework, cognisant that only part of the setting of the listed buildings would be affected, the degree of harm to their overall significance would be less than substantial in each case.
23. Paragraph 208 of the Framework states that in these circumstances the harm should be weighed against the public benefits of the proposal. Paragraph 205 confirms that when considering the impact of proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
24. The proposal would provide an additional energy efficient, self-build dwelling to the overall supply and mix of housing. Some economic activity would be associated with construction, and some social and economic benefits to the locality may be associated with the activity of future occupants. Environmental benefits would be likely to accrue from the increased use of renewable technologies and sustainable construction techniques, as well as ecological enhancement derived from the intended orchard and landscaping.
25. Nevertheless, the extent of public benefits from a single dwelling would be limited, and ultimately insufficient to outweigh the great weight attributed to the less than substantial harm caused to each listed building. It follows the proposal would conflict with national policy to protect designated heritage assets.
26. Paragraph 209 of the Framework stipulates that in relation to non-designated heritage assets a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. In this instance, the harm to the respective settings of Roman Byre, Oak View and The Granary would be limited, but cumulatively does count further against allowing the proposal.

27. My attention is drawn to a previous appeal decision⁵ for a vehicular access at Roman Byre, and in particular the Inspectors comments on the setting of nearby listed buildings. The Inspector in that case was considering a proposal of a different nature and in a different location to the one before me, and his observations were made in that respect. Whilst I have had regard to the decision, I am not convinced that he sought to make any wider pronouncements on the significance or setting of the listed buildings as part of his reasoning. Furthermore, although I am not appraised of all the evidence before that Inspector, he did not have the benefit of the Heritage Statement dated 2021, which has informed my deliberations. Hence, the decision is of limited weight.
28. The letter dated 29 September 2023 from the Planning Inspectorate gives the opinion that the proposal does not constitute Environmental Impact Assessment development for the purposes of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. The reference to significant effects or otherwise is made in that context. Upon a plain reading it does not purport to have any wider application, nor does it seek to provide an opinion on the planning merits of the case. Hence, this is of limited relevance to my consideration of this main issue.
29. Comparisons are made by the appellant between the proposal and a scheme for a Southern Link Road (SLR). However, the scale and nature of the respective proposals are entirely different. As such, I fail to see how the appeal scheme would derive support from such an infrastructure project, which in any event, the appellant describes as abandoned.
30. Reference⁶ is made to the grant of planning permission for two large, modern steel buildings between The Granary and Haywood Lodge Cottages. Limited information is provided as to the circumstances that led to this decision, although I observed that these buildings are further away from Haywood Lodge than the appeal site. If anything, their presence reinforces my concerns about the likely impact of the development on the setting of heritage assets and would not lead me to find otherwise.
31. The appellant contends that the proposal would have a limited impact on views from Haywood Lodge, that the primary aspect of the Grade II* listed building would be unchanged and that public views of the proposed scheme would be extremely limited. Be that as it may, listed buildings are safeguarded for their inherent architectural and historic interest irrespective of whether or not public views of the building can be gained. I am not aware that the statutory duty in the Act is confined to public aspects of listed buildings, rather I have considered the impact upon their special interest and significance.
32. Accordingly, I find that the proposal would be harmful to the character and appearance of the area and would cause unjustified harm to the significance of four listed buildings by harming their settings. Additional limited harm would result to the settings of non-designated heritage assets. Therefore, the proposal would be contrary to policies SS6, LD1 and LD4 of the Herefordshire Local Plan Core Strategy 2011-2031, October 2015 (CS) and policy CH1 of the Callow and Haywood Neighbourhood Development Plan 2011-2031, made 2016 (NDP). Amongst other things, when read in combination, these policies seek to

⁵ Appeal reference APP/W1850/W/20/3247769, Appendix 59, Appellant's Statement of Case

⁶ Paragraph 180, page 11, Appellant's Statement of Case

conserve and enhance the historic environment, including the settings of heritage assets.

33. Furthermore, the proposal would conflict with some of the requirements in policy SD1 of the CS for new buildings to maintain local distinctiveness and ensure that the distinctive features of existing buildings and their settings are safeguarded.
34. The Council has also referred to conflict with policies RA2 and SS1 of the CS in refusal reason 2 of its decision notice. I shall consider the relevance of policy RA2 as part of the next main issue. Policy SS1 generically refers to the presumption in favour of sustainable development. I find no direct conflict with its wording in respect of this main issue.

Location

35. The CS contains a housing strategy for rural areas, within which policy RA2 applies to housing in settlements outside Hereford and the market towns. It supports some housing growth in or adjacent to named settlements listed in figures 4.14 and 4.15 of the CS.
36. Supporting text in paragraph 4.8.23 of the CS explains that outside of the settlements listed, new housing will be restricted to avoid unsustainable patterns of development and will be limited to the criteria listed in policy RA3. Policy RA3 of the CS confirms in relation to rural locations outside of settlements, residential development will be limited to seven specified exceptions.
37. Policies RA2 and RA3 form components of the wider housing strategy for rural areas in the CS. Reading the CS as a whole it is logical and consistent that the reference to 'settlements' in policy RA3 means those named in figures 4.14 and 4.15, and hence it applies to the rural locations outside of those settlements.
38. The approach broadly aligns with the Government's approach to rural housing set out in paragraphs 82-84 of the Framework. The CS identifies where residential development in rural areas can be accommodated, specifying where there would be opportunities for villages to grow and thrive.
39. The appeal site is close to a cluster of buildings described by the appellant as Haywood hamlet⁷. This is not one of the settlements named in the CS as receiving any support from policy RA2 for further housing development. Hence, policy RA3 applies, which limits the circumstances for residential development.
40. One of the exceptions included in policy RA3 of the CS is where proposals are of exceptional quality and innovative design satisfying the design criteria set out in paragraph 55 of a former version of the Framework and achieves sustainable standards of design and construction. Those criteria were (1) that the design should be truly outstanding or innovative, helping to raise standards of design more generally in rural areas; (2) reflect the highest standards of architecture; (3) significantly enhance its immediate setting; and (4) be sensitive to the defining characteristics of the local area.
41. The appellant explains⁸ that inspiration for the proposal has been taken from steel framed agricultural buildings that were once more prevalent in the

⁷ Page 2, Appellant's Statement of Case

⁸ Paragraph 158, Appellant's Statement of Case

vicinity. Moreover, renewable technologies, sustainable construction methods and orchard planting are included as part of the design. Essentially, she considers that, notwithstanding subsequent revisions to the Framework, the dwelling would meet the requisite criteria to qualify as a permitted exception under policy RA3(6).

42. Whilst the design concept has been clearly articulated, the resulting development would result in sizable buildings with a utilitarian character. The evidence fails to convincingly explain how taking cues from steel framed agricultural buildings would result in truly outstanding or innovative design or the highest standards of architecture. Whilst comparatively the design standard would be higher than some generic housing developments, the criteria referred to in policy RA3 sets a very high threshold.
43. Moreover, it will be seen from my findings in relation to the first main issue, I do not consider the development would enhance its immediate setting or be sensitive to the defining characteristics of the area, rather the opposite. Hence, the evidence before me does not show that the development would fulfil this, or any of the other limited exceptions permitted by policy RA3 of the CS.
44. The appellant further contends that policy support is derived from policy CH9 of the NDP, which forms part of the development plan and relates to housing. The first paragraph of the policy wording provides support in principle for new housing proposals which contribute to the provision of at least 7 additional units within or adjacent to the settlement of Grafton. The second paragraph states, amongst other things, that *'New housing should be located on small infill plots within or adjacent to existing clusters of buildings or built up areas of Grafton wherever possible.'*
45. The evidence presented by the appellant tracks the difficulty there has been in interpreting the meaning and application of this second paragraph of policy CH9 of the NDP. This includes whether it is a qualifying statement to the first paragraph, or whether it can be separated from it, and if the latter, whether the reference to Grafton means the settlement, the parish or has a wider application. It is put to me that the second paragraph of policy CH9 stands separately from the first, and furthermore has two limbs. The first limb would allow small infill plots within or adjacent to existing clusters of buildings, the second would allow new housing in built up areas of Grafton.
46. Even if I were to accept this interpretation, I am not convinced that the appeal proposal would qualify for support under either limb. In relation to the first, although the appeal site is near to a cluster of buildings, it is not shown that it is either small or an infill plot. I say this because the application site comprises approximately 0.6ha⁹, which in the context of residential development, represents a large plot for a single dwelling. In the absence of a definition in the NDP, 'infill' is often taken to mean a small gap within an otherwise built up frontage. The proposed dwelling would be positioned considerably to the rear of the cluster of existing buildings that are generally closer to the road.
47. In relation to the second limb, it is not shown that the appeal site forms part of a built up area of Grafton settlement or parish. It follows that, even upon this interpretation, the appeal proposal would not be supported by policy CH9 of the NDP.

⁹ Question 4, Planning application form

48. Therefore, reading the development plan as a whole, the location of the appeal site would conflict with the housing strategy for rural areas.
49. My attention is drawn to other planning applications for residential development in Portway¹⁰ that ultimately had mixed results. Whilst the cases illustrate the approaches taken to the application of policy CH9 of the NDP, neither are shown to be directly comparable to the circumstances or location of the appeal site. In any event, I have already found policy CH9 would not support the appeal proposal, even when interpreting the second paragraph as having two separate limbs.
50. In reaching my findings, I have had regard to the Court of Appeal decision in *Braintree District Council v SSCLG, Greyread Ltd & Granville Developments Ltd [2018] EWCA Civ 610*¹¹. However, the case primarily considered the meaning of government policy which sought to avoid new isolated homes in the countryside. A similar provision is found in paragraph 84 of the current Framework. Nevertheless, there is no dispute between the parties that the proposal would not represent an isolated home in the countryside¹². Hence, it is of limited relevance to my determination.
51. An analysis of services and links available in Haywood hamlet has been provided¹³, and reference is made to a planning decision of the Council for two dwellings at Welsh Newton. It is asserted that this was a location with very limited access to services, infrastructure or public transport, and by comparison the appeal site would be more accessible. However, unlike the appeal before me, the evidence¹⁴ indicates that the settlement under consideration in that case (Welsh Newton Common) is named as one of the settlements in figure 4.15 of the CS, which has different implications for the application of policy RA2. As such, this case would not lead me to find otherwise on this main issue.
52. Consequently, I find that having regard to local planning policies, the proposal would result in a more dispersed settlement pattern than is advocated in the development plan's strategy for housing in rural areas. It would not derive support from policy RA2 of the CS nor policy CH9 of the NDP, and would conflict with policy RA3 of the CS which seeks to limit residential development to specified exceptions in these circumstances.

Other considerations

53. The proposal would constitute a self-build property, general encouragement for which can be found in the Framework. Moreover, the evidence suggests that there is an undersupply of such development. Even so, neither local nor national policy suggests that this is a matter that takes paramountcy over the policies of the development plan, and one such dwelling would make a small contribution. Consequently, it attracts a commensurate degree of favourable weight.
54. The appellant explains that the appeal site has formed part of an extended garden and therefore curtilage to Roman Byre, which on the balance of

¹⁰ Planning references P174071/F & P211933/F

¹¹ Legal Appendix 4, Appellant's Statement of Case

¹² Paragraph 6.6, Council's Planning and Regulatory Committee Report; Paragraph 5.12 Appellant's response to the LPA's Statement of Case

¹³ Page 19, Appellant's Statement of Case

¹⁴ Appendix 51, Appellant's Statement of Case

evidence before me, is a position accepted by the Council¹⁵. On that basis, and having regard to relevant case law, the proposal would fall within the definition of previously developed land (pdl) in the Framework. Paragraph 123 of the Framework encourages the use of pdl.

55. Nevertheless, the definition of pdl within the Framework states that it should not be assumed that the whole of a curtilage should be developed. Moreover, the substantial weight referred to in paragraph 124(c) of the Framework is qualified, such that it applies to the use of 'suitable' brownfield land. Given the sensitivity of the appeal site in relation to heritage assets which I found in relation to the first main issue, this would render the appeal site not suitable, which considerably tempers the favourable weight given to the use of pdl in this instance.
56. No objections were raised by the Council or statutory consultees in relation to water and drainage, highway safety or ecology. Moreover, the Parish Council supported the scheme, as did a considerable number of local people. I have taken account of the points raised in making my determination and for the most part have addressed these within my reasoning on the main issues. In relation to other planning matters mentioned, the absence of harm is generally a neutral factor. However, where tangible benefits arise, I have given this positive weight in the overall planning balance.
57. Concerns are repeatedly raised by the appellant regarding the conduct of Council officers and members. Reference is made, amongst other things, to a lack of impartiality, inconsistency and being pre-determined during the planning application process and when making their decision. In addition, criticism is made regarding the usefulness and timeliness of the Council's pre-application advice service. However, these are not matters that fall within the scope of my determination, which I have made on the planning merits of the case.
58. The appellant considers that irrespective of the housing supply position, the housing policies in the CS and NDP are out of date owing, in part, to subsequent changes to the Framework and Council documents that seek to review the settlement hierarchy as part of work towards progressing a new local plan. The passage of time will inevitably bring changes. However, paragraph 225 of the Framework confirms that existing policies in the development plan should not be considered out of date simply because they were adopted or made prior to the publication of the Framework. Rather due weight should be given to them according to their degree of consistency with it.
59. In relation to both main issues, I found that the relevant development plan policies broadly aligned with the respective policies in the Framework relating to the historic environment and rural housing. On the evidence presented, I am not persuaded that the policies most important for determining the planning application, as identified in relation to the main issues, have been overtaken by things that have happened since the CS and NDP were respectively adopted and made, either on the ground or through a change in national policy or for any other reason that would render them out of date.
60. Moreover, even if I were to accept the appellant's position on this point, the balance in paragraph 11(d)(ii) of the Framework would not be engaged. This is

¹⁵ Paragraph 1.5 & Addendum 3 to Addendum to Appellant's Statement of Case

because, in accordance with paragraph 11(d)(i) and footnote 7 of the Framework, I have found the policies in the Framework that seek to protect designated heritage assets provide a clear reason for refusing the development proposed.

Planning balance and conclusion

61. There would be some benefits arising from the proposal in that an additional self-build, energy efficient dwelling would be added to the supply and mix of housing, with some associated economic, social and environmental benefits. The development would take place on land which falls within the definition of previously developed land, with the proposed orchard planting likely to enhance biodiversity. However, given the likely limited extent of such benefits, cumulatively I attribute them a minor amount of positive weight.
62. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. I have not found material considerations that would justify making the decision other than in accordance with the development plan. Therefore, for the above reasons, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Helen O'Connor

INSPECTOR