



Appeal Decision

Site visit made on 4 June 2024

by C Billings BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 August 2024

Appeal Ref: APP/F2415/W/24/3339452

Straun Cottage, Main Street, Ilston On The Hill, Leicestershire LE7 9EG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr Ronan Donohoe of Clarity Property Alpha Limited against the decision of Harborough District Council.
 - The application Ref is 23/01553/OUT.
 - The development proposed is for one serviced plot for self-build and custom housebuilding.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal seeks outline consent for one dwelling with all matters, except for access, reserved for future consideration. Indicative plans have been submitted which show a possible layout of the proposed dwelling within the site and I have treated these plans as to what the appellant has in mind for the development.
3. The proposal seeks permission for one serviced plot for a self-build and custom build dwelling. I have therefore considered the issues and benefits related to the provision of such a dwelling later in this decision.
4. The Council advises that on reviewing its case and the appellants evidence, it wishes to omit reference to Local Plan Policies GD2, GD3, GD4, H3 and H5 from its first reason for refusal. The Council request that reason for refusal 1 be considered as: 'The proposed new dwelling would, if built, cause loss of an undeveloped open break currently making a positive contribution to the setting of the conservation area, the Manor House (Grade II) and impact on the street scene. The resulting development would cause harm which is not outweighed by the public benefit of its important contribution to provision of self-build housing and consequently, would result in the construction of a new dwelling contrary to Harborough Local Plan Policy HC1, the SPD and the National Planning Policy Framework'.
5. The appellant has raised no dispute to the changes to the reasons for refusal, therefore, I have considered the appeal on the basis of this amended reason.

Background and Main Issues

6. From the evidence before me, the proposed dwelling would be within the village of Ilston on the Hill, which is defined in Policy SS1 of the Harborough Local Plan, 30 April 2019 (HLP) as, other villages, rural settlements, and the

countryside where development will be strictly controlled. However, having regard to the revised reason for refusal above, including omission of reference to conflict with Policy GD4 (New housing in the countryside) and Policy GD3 (Development in the countryside) of the HLP, matters of locational sustainability are not in dispute. Therefore, I do not consider this in detail or include it as a main issue in this appeal.

7. Bearing in mind the above, and the appellant's evidence, the main issues in this appeal are:
- whether the proposed development would preserve or enhance the character or appearance of the Illston on the Hill Conservation Area (CA) and, whether it would preserve the setting of the Grade II listed Manor House;
 - whether the proposal would ensure the provision of adequate parking and outdoor amenity garden space for the occupiers of Straun Cottage; and,
 - the effect of the proposal on the living conditions of the occupants of Straun Cottage and the future occupants of the proposed dwelling, particularly in respect of any impacts on privacy, outlook, and sunlight.

Reasons

Heritage Assets

8. Opposite the appeal site on the other side of Main Street is the grade II listed building (LB), Manor House, which has a mounting block within its grounds and boundary wall and gate piers that are also individually grade II listed. Additionally, the site lies within the Illston on the Hill Conservation Area (CA). Therefore, in reaching my decision, I have had regard to my statutory duties under Section 66(1) and Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).

Setting of the Listed Building

9. Manor House is a late 17th century two and half storey property constructed of coursed rubble stone with plinth, quoins, and stone dressings, rendered to side and rear in part, with a slate pitched roof. Its end side gable faces Main Street, set back only slightly from the road edge with a small, grassed verge in front. Continuing along its road frontage, further to the southwest, are the Manor House's listed stone gate piers and walls, set either side of iron gates, with a high, long section of red brick wall enclosing the front garden area of the LB.
10. The LB is a prominent building within the street scene and, despite its village location, it has a reasonably open setting surrounding it, with grazing and paddock land beyond the front and rear boundaries. On the opposite side of Main Street, currently the appeal site contains a modest, low, single storey outbuilding within the side garden of Straun Cottage, set behind a reasonably tall boundary hedge. This garden space of the appeal site forms part of the surroundings in which the LB is experienced and its form, with it being effectively a visual space broadly opposite the end gable of the LB. Thereby, it helps to ensure that the LB retains some space around it and in a generally verdant form, within this part of the street scene. Consequently, I consider that

the appeal site falls within the setting of the LB and its present form and appearance contributes positively to the heritage significance of the LB.

11. The appeal site is almost directly opposite Manor House. While the application is in outline form with matters of layout and landscaping reserved, given that the access forms part of the considerations and this point is fixed by the plans, there would be little opportunity to construct the proposed dwelling other than in the position shown on the indicative plan. The information also indicates that the proposed dwelling would be 2-storey. Even though the design and layout of the new dwelling is reserved for future consideration, such a building would likely infill a significant part of the open gap which lies between Straun Cottage and Hollin Top. Thereby, in introducing such built development, the proposal would materially reduce the open aspect to one side of the LB.
12. In addition, the proposed vehicular access onto Main Street and associated visibility splays would necessitate the removal of the front boundary hedge to the appeal site and there would be an area of hardstanding for 2 parking spaces visible directly opposite the LB. While a replacement hedge could be provided across the front of part of the site, the effect of the proposed scheme would, in all likelihood, reduce the appearance of the landscaped frontage and introduce a much harder built form, notwithstanding how well designed it may be.
13. The combination of the changes proposed would materially alter the reasonably open and verdant feel to the appeal site and thereby, would undermine its relationship to the LB. This change would erode some of the key and positive aspects of the appeal site and detract from the positive contribution it makes to the setting of the LB. Indeed, the resulting development of the appeal site, irrespective of its design, which would come forward at the reserved matters stage, would harm the setting of the LB in the way that I have described. Accordingly, this would adversely affect the heritage significance of the LB.

Conservation Area

14. The CA includes the core of the historic rural village. It has a strong linear pattern, with a cul-de-sac terminating just beyond Manor House. The village occupies a prominent position on a hill surrounded by countryside, with the most significant views of the village and its medieval church being from the north and west. There are many red brick 18th and 19th century dwellings within the village. Where dwellings are set back from the road edge, they have attractive verdant enclosed front gardens, generally enclosed by brick walls, although where there are gaps between dwellings or where gardens are to the side of properties, tall boundary hedgerows form dominant features. This creates a verdant and pleasant feel to the character and appearance of the area.
15. The more notable and prominent historic buildings within the village include its medieval church and the Manor House. Manor House contributes greatly to the character of the south-western end of the village and CA, with its unusual position, at right angles to Main Street and facing south-west away from the village.
16. Thereby, the significance of the CA includes being derived from its linear pattern of development, hill-side location with views into and out of the village to the surrounding rural landscape, and the contribution of certain historic

buildings thereto. In addition, the predominance of red brick and stone building materials, tall hedgerows within gaps, creating a verdant and pleasant feel, contributes to the significance of the CA as a whole.

17. While the proposed dwelling would follow the linear pattern of development within the village, it would close a notable verdant and spacious gap along Main Street and remove the significant frontage hedgerow, both of which contribute to the significance of the CA. Furthermore, in adding built form within the gap between buildings, the glimpsed views of open countryside that are currently visible above the modest outbuilding would be diminished. In addition, due to the harm caused to the setting of the listed Manor House, as a notable prominent building within the CA, this would consequently have an unacceptable impact on the significance of the CA.
18. Thereby, for the above reasons, I find the proposal would neither preserve nor enhance the character or appearance of the CA.

Heritage Conclusion

19. In view of the above, the proposal would conflict with Policy HC1 of the HLP, and guidance contained in the Council's Development Management Supplementary Planning Document (SPD) December 2012, which together require development affecting heritage assets to conserve or enhance the significance, character, appearance and setting of the asset, including where possible better revealing the significance of the asset and/or its setting. For the same reasons, the proposal would conflict with the statutory presumption under Section 66(1) and Section 72(1) of the Act. I will go on to consider the heritage balance below.

Parking and Garden Space Provision

20. Straun Cottage currently has a dropped kerb, gated vehicular access leading to an area of hardstanding to the side of the cottage, which would provide off road parking for one vehicle. The appeal site and proposed plans do not include the area where the existing parking and access thereto is located, and so, the proposal would not reduce the current level of off-road parking associated with Straun Cottage.
21. Thereby, as the existing off road parking provision would be retained for the existing host property and in the absence of any substantive evidence to the contrary, I consider the proposal would ensure adequate off-road parking is provided for the occupants of Straun Cottage.
22. The proposed indicative block plan indicates the new dwelling would be two-storey and located to the end of the site, closest to the proposed boundary with Straun Cottage. The proposal would subdivide the plot of the host dwelling in two and occupy a significant portion of the side garden area of Straun Cottage. Due to the shallow depth of the plot, the remaining garden space for the host property would comprise a narrow area to the rear of the cottage and the area of hardstanding to its side, which may be used for parking.
23. The resultant garden area of the host dwelling would be significantly less than that typical of other dwellings within the surrounding area. Also, due to the position of the proposed two storey dwelling to the south-west of the host property, this would cause some overshadowing of the retained side garden area of Straun Cottage, diminishing the useability and potential enjoyment of

such an area. Thereby, I find that unacceptable garden amenity space would be provided for the occupants of Straun Cottage in terms of size and useability.

24. In conclusion, I find that adequate parking would be provided for the occupants of Straun Cottage and so, there would be no conflict with Policies IN2 and part I of GD8 of the HLP, which require that new development has adequate parking arrangements. I find, however, that unacceptable outdoor amenity garden space would be provided for the occupiers of Straun Cottage, which would be harmful to their living conditions. Thereby, the proposal would conflict with Policy GD8 part e of the HLP and guidance contained in the Council's SPD, which require development to be designed to minimise impact on the amenity of existing residents.

Living Conditions

25. The illustrative block plan shows that the new dwelling would be sited close to the boundary with Straun Cottage, some 6 metres at the nearest part to the host dwelling. Notwithstanding that the design and siting of the new dwelling are reserved for future consideration, it is unlikely that the minimum required separation distance of 14 metres, as stipulated in the Council's SPD, would be achieved between dwellings. While the landowners are willing to obscure or remove windows in the side gable of Straun Cottage, the proposal due to its two-storey height, proximity and orientation to the host property would likely harmfully affect sunlight, and cause overshadowing and loss of outlook from the house and garden of Straun Cottage, even in respect of other windows that would be retained at the rear of the cottage.
26. Having regard to the above, the proposal, in all likelihood and notwithstanding details at the reserved matters stage, would unacceptably harm the living conditions of occupants of Straun Cottage by reason of loss of sunlight and outlook.
27. As the proposal is for outline consent, with no details of the design and position of windows proposed in the new dwelling for consideration at this time, it is difficult to assess the harm that would be caused to the future occupants of the dwelling in terms of outlook and privacy matters. It would be possible to design a dwelling that would have restricted¹ or no windows in the side elevation of the property facing towards Straun Cottage, so there would be no direct overlooking, loss of privacy or outlook caused to the future occupants of the new dwelling. This would also ensure no direct overlooking is caused to the occupiers of Straun Cottage.
28. In view of the above, I find the proposal would adversely affect outlook and the amount of sunlight enjoyed by the occupants of Straun Cottage, and this would consequently be harmful to their living conditions. For such reasons, the proposal would conflict with Policy GD8 of the HLP and guidance contained in the SPD.

Other Matters

Self-build housing considerations

29. The Council has a statutory duty to meet the need arising from its Self-build Register, under Section 2A of the Self-build and Custom Housebuilding Act

¹ As proposed in the Plot Passport CD- 1.10

2015, as amended (the 2015 Act). Also, section 5 of the National Planning Policy Framework (the Framework) identifies that local planning authorities should seek opportunities through policies and decisions, to support small sites to come forward for community-led development for housing and for self-build and custom build housing.

30. Notwithstanding the dis-agreement between the main parties in regard to the figures in relation to SBCBH, the appellant's evidence is compelling. It includes a Housing Needs Survey² that demonstrates a need in the Parish of Illston On the Hill for up to 4 dwellings and provides details of various appeal and application decisions. Such information demonstrates that the Council clearly has not granted enough permissions to meet the identified demand for self-build and custom build dwellings on their self-build register. Furthermore, the Council in its officer's report accepts it has a significant shortfall in self-build provision.
31. Thereby, there is undoubtably a significant shortfall of self-build dwellings within the district and so, the Council is not meeting the demand for such, in accordance with its statutory duty. This is a material consideration, which I attach significant weight to.
32. I have reviewed the considerable number of other appeal decisions that have been referred to me by the appellant. These include some within the Harborough District, but most relate to sites outside the District; a few of which are unrelated to self-build and custom build housing proposals. In addition, there is a Secretary of State decision³, and a court judgement⁴.
33. Also, I have been referred to a number of planning application decisions made by the Council⁵, whereby the decision-maker had regard to self-build and custom build housing considerations. A number of the appeal examples relate to development proposals that are located outside Harborough District and are for schemes of more than one new dwelling. Also, there are other considerations which influenced the Inspector's decision in these cases, including but not limited to, the relevant Council having a lack of 5 years Housing Land Supply.
34. In respect of the appeal examples at land adjacent to Walton Hall⁶ within Harborough District, the Inspector in allowing the appeals for a self-build and custom housebuilding, found that, in such cases the need for the development had been clearly evidenced through a rural housing needs survey, which thereby outweighed the conflict with the development plan. Also, in these examples, there were no other harms identified or considered, including with regard to heritage assets and living conditions, unlike the appeal before me. Thereby, I consider the examples advanced by the appellant are not directly comparable to the appeal proposal and its site context.

² Evidence from Housing Needs Survey (January 2023) for the Parish of Illston on the Hill and addendum/response comments (May 2024) on the Housing Needs Survey, as prepared by CNB Housing Insights in relation to the appeal proposal.

³ Secretary of State Decision - Land off Darnhall School Lane, Winsford, Cheshire ref. APP/A0665/W/14/2212671

⁴ Braintree District Council v Secretary of State for Communities and Local Government & Ors [2018] EWCA Civ 610

⁵ Related to self-build dwellings including refs. 23/01082/OUT, 23/01081/OUT, 23/01442/FUL, 23/01264/FUL, 23/01190/FUL non-self-build/custom build dwellings inc refs. 16/00034/OUT, 19/01907/FUL, 20/01893/FUL, 23/00034/FUL, 23/01179/FUL, 23/01468/FUL. Also, ref. 23/00756/OUT, 23/01553/OUT, 23/01441/FUL, 23/01104/OUT, 24/00216/OUT, 23/01468/FUL, 23/00034/FUL.

⁶ Ref APP/F2415/W/22/3296353 & APP/F2415/W/22/3300240

35. With regard to the examples granted planning consent within Harborough District, as advanced by the appellant, I note that even when the development site was within a conservation area or fairly close to a listed building, the decision-maker in such cases did not find any harm was caused to the significance and/or setting of the heritage assets⁷. Thereby, such examples are not directly comparable to the appeal site and proposal before me.
36. In respect of the appeal decisions provided for self-build housing in Harborough District⁸, in addition to the weight attached to the shortfall in self-build dwellings, there were also other considerations and certain site or appeal proposal specific matters contributing to the respective Inspector's decision in those examples. Including, but not limited to, compliance with development plan policy, and the limited impact on the character and appearance of the area and sustainability of the site location.
37. While Policy H5 of the HLP supports proposals for self-build and custom build housing (SBCBH) in any location suitable for housing, including allocated sites, committed sites, windfall sites and sites which are in accordance with Policy GD2 of the HLP. Policy GD2 also, amongst other matters, requires development to be physically and visually connected to and respect the form and character of the existing settlement and landscape. Thereby, balance against other relevant policies within the plan is required, including Policy HC1 of the HLP.
38. In view of the above, I have assessed the proposal having regard to its individual merits and site context and none of the other cases have precisely the same set of circumstances as the scheme before me. Therefore, these other cases do not materially influence the outcome of this appeal and I attach them limited weight.

Highways Considerations

39. I acknowledge the highway technical note prepared by Roberts Highway Consultants on behalf of a local interested party. The proposal, in introducing a new dropped kerb to serve the proposed dwelling would reduce the availability of on street parking along Main Street in front of the appeal site. Also, the occupiers of the new dwelling would inevitably add further movements along Main Street, which is a cul-de-sac at the appeal site end. However, from my observations and the evidence before me, I do not consider the proposal for one 2-bedroom dwelling and associated traffic related thereto would cause an unacceptable impact on highway safety, nor a severe impact on the road network. I also appreciate that Leicestershire County Council, as highway authority for the area, raises no objections, subject to the proposed visibility splays being kept free of obstruction.

Heritage and Planning Balance

40. I have found that the proposal would harm the setting of the listed Manor House and the significance of the CA. Having regard to the scale and nature of the proposed development, in terms of the Framework, I find the harm caused thereto would be less than substantial. Paragraph 208 of the Framework requires such less than substantial harm to be weighed against the public benefits of the proposal.

⁷ Ref 23/01081/OUT and 19/01907/FUL

⁸ Ref. APP-F2415-W-22-3296353 & APP/F2415/W/22/3300240 and APP-F2415-W-22- 3303898.

41. The Framework sets out 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.
42. The proposal is for a windfall housing development, which would contribute one self-build dwelling and offer social and economic benefits associated with diversifying the market through creating opportunities to downsize within the village, increasing consumer choice and so, would contribute to meeting housing requirements for the area⁹. There would also be economic benefits relative to the construction phase, and as future occupiers feed into the local economy. Additionally, I acknowledge the potential added benefits to the local area and environment from the construction of a self-build, as opposed to a mainstream house, as highlighted in the appellant's reference to research in the NaCSBA Custom and Self Build Report 2023/24. Consequently, I attach substantial weight to the provision of a self-build unit in such context.
43. The proposal would comprise housing development on a small site of less than 4 dwellings, which is within a settlement in the countryside and is supported by a Housing Needs Survey that demonstrates local need in the Parish, as required by part 1a of Policy GD4 of the HLP. Although Policy GD4 of the HLP also requires new residential development to be in accordance with Policy GD2 of the HLP, and in view of the harm I have found in relation to heritage assets, it would not in my opinion. Thereby, I attach only moderate weight to such considerations.
44. Even taking into consideration the demonstrable need for self-build housing which the Council is significantly failing to satisfy, cumulatively, this and other public benefits of the proposal would not be sufficient to outweigh the less than substantial harm to the significance of the designated heritage assets and the great weight that it carries. Thereby, I am not persuaded in this instance that the great weight in respect of heritage harm is outweighed by limb d) of paragraph 70¹⁰ of the Framework, nor is it outweighed by the substantial weight I have attached to the provision of a self-build dwelling. Accordingly, I find conflict with the historic environment protection policies under Section 16 of the Framework. The heritage balance therefore falls against the scheme.
45. It is not in dispute that there is no development plan policy relating to self-build housing within the HLP. The presumption in favour of sustainable development detailed at paragraph 11d) of the Framework means where there are not relevant development plan policies...granting permission unless, 11d) i) the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. However, footnote 7 includes policies relating to designated heritage assets. My findings in respect of the heritage harm that would be caused to the CA and listed Manor House therefore provides a clear reason for refusing the development for the purposes of paragraph 11d) of the Framework.

⁹Housing Needs Survey (January 2023) for the Parish of Illston on the Hill and addendum/response comments (May 2024) on the Housing Needs Survey, as prepared by CNB Housing Insights in relation to the appeal proposal.

¹⁰ The Framework, Paragraph 70 d) sets out that, small and medium sized sites can make an important contribution to meeting the housing requirement of an area and are often built-out relatively quickly. To promote the development of a good mix of sites local planning authorities should...d) support the development of windfall sites through their policies and decisions – giving great weight to the benefits of using suitable sites within existing settlements for homes.

Accordingly, the scheme should be determined in accordance with a normal planning balance.

Conclusion

46. I do not find harm in relation to parking provision for Straun Cottage and the living conditions of future occupiers of the proposed new dwelling. There would be worthwhile benefits from the scheme, however, these benefits would not outweigh the harm caused to designated heritage assets and the living conditions of the occupiers of the existing and proposed dwelling. This harm and related policy conflict would be such that the proposal would conflict with the development plan when considered as a whole and there are no material considerations that would outweigh the identified harm and associated conflict with the development plan.

47. Therefore, I conclude that the appeal should be dismissed.

C Billings

INSPECTOR