



Appeal Decision

Site visit made on 3 September 2024

by K Townend BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th September 2024

Appeal Ref: APP/H1840/W/24/3344260

Tree Tops, Cottons Lane, Ashton Under Hill, Worcestershire WR11 7SS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Sam Cope against the decision of Wychavon District Council.
 - The application Ref is W/23/01730/FUL.
 - The development proposed is 2 new self-build dwellings to include change of use to residential.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. On 22 November 2023, all designated Areas of Outstanding Natural Beauty (AONBs) in England and Wales became "National Landscapes". This is consistent with the note at page 2 of the Cotswolds National Landscape Management Plan 2023-225 (the CNLMP) which advises that this area was renamed in 2020. However, the legal designation and policy status of these areas are unchanged. I have, therefore, referred to the Cotswolds Area of Outstanding Natural Beauty as the Cotswolds National Landscape throughout my decision.
3. Both main parties have referred to the South Worcestershire Development Plan Review (SWDPR). The Council has advised that the plan was submitted to the Planning Inspectorate for examination in September 2023 and therefore the SWDPR, and the policies therein, is a material consideration in the determination of planning applications. However, I cannot be certain if any policies are to be modified or when it is likely to be adopted. I, therefore, only give limited weight to the emerging policies.
4. As part of the appeal submission the appellant has submitted a letter titled 'Visibility Statement for Land on Cottons Lane', dated 23 November 2023. From the evidence before me this was submitted to the Council before they made their decision but was not taken into consideration. Moreover, I have no evidence that the amendments shown within this document were the subject of a full re-consultation. The Council subsequently determined the proposal on the basis of the originally submitted scheme.
5. In considering whether to accept the additional information, I have had regard to Holborn Studios Ltd¹. The amended plan would result in a fundamental change to the nature of the proposal over what was considered at the planning application stage. The change in the layout of the front of the site is a

¹ Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823 (Admin)

substantive change. I also have no evidence that the neighbouring occupiers were consulted on the amended scheme and, consequently, they would be unfairly prejudiced if I were to accept the amended plan.

6. In this case, the changes in the additional information and amended plan would result in a substantial change to the application and the interested parties have not had an opportunity to consider the scheme, as amended. Consequently, I have not accepted the amended plan for the purposes of this appeal. In the interests of natural justice, I have determined the appeal on the basis of the plans as considered by the Council.

Main Issues

7. The main issues are:

- whether the proposed development would provide a suitable location for housing, having regard to the development strategy for the area;
- the effect of the proposed development on the character and appearance of the area, giving special regard to the effect on the National Landscape;
- the effect of the proposed development on designated heritage assets;
- whether or not the parking and access arrangements would be acceptable; and
- whether the proposed development would provide a suitable location for housing, having regard to the accessibility to services and facilities.

Reasons

Development strategy

8. The appeal site forms a parcel of land between two existing detached houses situated on Cottons Lane. The site lies outside the settlement boundary for Ashton under Hill identified in the South Worcestershire Development Plan, adopted 2016, (the SWDP) and is, for planning purposes, considered to be within open countryside. Policy SWDP 2 of the SWDP seeks to safeguard the open countryside and part C of the policy seeks to strictly control new development. The proposal would not fall within any of the limited forms of development set out as exceptions to Policy SWDP 2.
9. For the above reasons, the proposal would not provide a suitable location for housing, having regard to the development strategy for the area. The proposal would be contrary to Policies SWDP 1 and SWDP 2 of the SWDP which, taken together, seek to support sustainable development and to limit development in the countryside.
10. I have not been made aware of any policies within the SWDPR that would support the proposed development and, based on the evidence before me, the site would continue to be outside the settlement boundary. Consequently, it would also fail to comply with the settlement strategy policies in the SWDPR.
11. The proposal would also be contrary to The National Planning Policy Framework (the Framework) which promotes a plan-led system to identify areas suitable for development.

Character and appearance – National Landscape

12. The appeal site is a parcel of land between existing houses, it slopes up away from Cottons Lane on a steep bank which forms part of the wider landscape of hills around the village. At the time of my visit the site was overgrown with brambles and weeds, however there are also established trees and shrubs within the site. The appeal site, even in its overgrown condition, is not harmful to the character of the area and, in my judgement, provides a positive green gap between existing housing which is part of the character of this end of Cottons Lane.
13. The site lies within the Cotswolds National Landscape (the CNL) which washes over most of Ashton under Hill. Policy SWDP 23 of the SWDP recognises the national importance of the CNL, seeks to resist development that would have a detrimental impact on the natural beauty of the CNL and requires any development within the CNL to conserve and enhance the special qualities of the landscape.
14. Section 245 of the Levelling Up and Regeneration Act 2023 (the LURA) amended the duty in the Countryside and Rights of Way Act 2000 in relation to National Landscapes to require relevant authorities, in exercising or performing any functions in relation to, or so as to affect, land in a National Landscape to seek to further the purpose of conserving and enhancing the natural beauty of the National Landscape.
15. The LURA has imposed a more rigorous requirement in National Landscapes than that set out in Policy SWDP 23. However, there would be overlapping considerations between the requirements of the LURA and the policy, and the policy remains in keeping with the thrust of the LURA. The Cotswolds National Landscape Management Plan 2023-2025 (the CNLMP) identifies the special qualities of the CNL as, amongst other matters, the tranquillity of the area, the extensive dark sky areas, and the distinctive settlements with high architectural quality. These special qualities are key components of the natural beauty of the CNL.
16. Paragraph 182 of the Framework advises that great weight should be given to conserving and enhancing landscape and scenic beauty in Areas of Outstanding Natural Beauty. It also advises that the scale and extent of development in these areas should be limited.
17. Policy SWDP 25 of the SWDP seeks to ensure development considers the latest Landscape Character Assessment and its guidelines and that it is appropriate to, and integrates with, the character of the landscape setting. Whilst also seeking to conserve and, where appropriate, enhance the primary characteristic defined in the character assessments.
18. The Cotswolds AONB Landscape Strategy and Guidelines, June 2016, provides a comprehensive characterisation of the landscape to assist in understanding and promoting the concept of local distinctiveness. In so far as it is relevant to the appeal, I consider the character of the landscape is, in part, derived from the hills and open countryside around the village and the green spaces and gaps that extend into the village. The appeal site is a gap between buildings along Cottons Lane which forms part of the local character of the CNL and the landscape character area.

19. Due to the topography of the area even small scale developments can have a significant visual impact on the principal attributes of the CNL, as advised by paragraph 3 of the reasoned justification to Policy SWDP 23. Pertinent to this appeal the proposed siting and scale of the dwellings would result in significant amounts of excavation to enable the development. Contrary to the appellant's assertion, the plans and images of the model indicate that the two dwellings would project significantly out from the regraded hill and require a substantial amount of cutting out and a change in the slope of the bank. Only a small section of the rear of each dwelling would be set within the slope and the majority of the buildings would be forward of the bank. Moreover, the land would not be returned back to its original shape and the development would not blend seamlessly into the landscape or flow with the topography of the site. The appeal proposal would, therefore, significantly, and harmfully affect the visual appearance of this part of the CNL.
20. Although the siting and layout of the proposal would reflect the road fronting properties either side, and along Cottons Lane, the proposed dwellings are sited further forward than the properties to both sides. At my visit I saw that the existing site is visible from along Cottons Lane and, for the reasons given above, the proposal would be prominent in the street scene. Furthermore, although the existing slope constrains the potential of the site to provide substantially different house shapes and the level changes proposed would mean the two houses would be read as slightly different, their similarities would still be very apparent from Cottons Lane, even if different materials were to be proposed.
21. I saw that there are a number of bungalows at the village end of the lane which are of the same design to each other, however, at the appeal end of the lane the properties are individual and also include properties of historic interest. The two proposed dwellings are substantially different in scale, massing, and character to the other properties at this end of Cottons Lane but are also very similar to each other. In that regard, the proposed development would not fit in with the character of this end of Cottons Lane.
22. I accept that the modern design of the proposal is new and different, and I have not been provided with any evidence of similar properties to those proposed. However, new, and innovative designs would only be encouraged where they enhance the overall quality of the built environment, as required by Policy SWDP 21 of the SWDP. For the above reasons, I find that the proposal would not enhance the quality of the built environment.
23. Moreover, although the proposal is new and different, and even with the environmental qualities proposed, the scheme is not proposing anything that is outstanding or innovative to the development of housing, even if it is new for Ashton under Hill. I, therefore, consider that it is not sufficiently outstanding or innovative to gain the significant weight that Paragraph 139 of the Framework gives to such proposals. Neither would the proposal help to raise the standard of design in the area.
24. The proposal, as shown on the plans considered by the Council, also includes large areas of open and hard surfaced areas to the front of the proposed two dwellings. I note the appellant has referred to planting additional broadleaved trees to the front of the site. Although there are additional trees shown on the plan submitted in the visibility statement, I have not been made aware that a

- revised block plan was formally submitted and reconsulted on. Additional trees and landscaping would help to reduce the visual effect of the development; however, this is not what is before me and is not what was indicated on the plans the Council made its decision on.
25. The opening up of the front of the site and the large areas of hard surfacing would also make the proposed development prominent in the street scene and would not provide a green frontage to the site to help it blend into the landscape.
26. Furthermore, even if the proposal would provide more than 20% of the site area as landscaped gardens and the proposed dwellings would also have green roofs, this would not amount to the 20% Green Infrastructure required by Policy SWDP 5 of the SWDP. Part A(ii) of the policy advises that sites of the size of the appeal site are required to contribute 20% to Green Infrastructure. Footnote 22 confirms that this requirement excludes private gardens. Therefore, the proposal, albeit providing green space in private gardens, would not comply with the policy.
27. Policy SWDP 5 also advises that green infrastructure should be designed into the scheme. Consequently, it would not be reasonable or appropriate for me to condition the requirement for a policy compliant scheme as this would require a re-design of the development.
28. The appellant's Ecological Impact Assessment² indicates ecological enhancements which would comply with the requirements of Policy SWDP 22 of the SWDP which, amongst other matters, seeks to enhance biodiversity. However, the enhancement plan only indicates new planting to the rear and sides of the site and would, therefore, not help to minimise the visual effect of the development.
29. Moreover, although ecology mitigation is proposed, this would not reduce the effect of the large areas of glazing, including the glazed section of the roof, on the area of dark sky, as required by Policy CE5 of the CNLMP. However, I accept that this matter could be dealt with by condition to require the glazing and lighting specifications referred to in the appellant's final comments which would reduce the level of light emitted from the proposed dwellings.
30. That neither Natural England nor the Cotswolds Conservation Board objected would not weigh in favour of the proposal. The response from the Cotswolds Conservation Board clearly confirms that it does not imply support, or objection. It clearly places the decision in the hands of the Council. Furthermore, although the proposal would make effective use of land and the number of dwellings respects the density in the area, as required by Policy SWDP 13 of the SWDP, the harm to the landscape and the open countryside would be substantial. I also have no compelling evidence of other developments of a similar scale and with similar constraints, as noted by an interested party, and, in any event, I have considered the scheme before me.
31. For the above reasons, the scheme would have an adverse effect on the character and appearance of the area and would not conserve nor enhance the natural beauty of the Cotswolds Natural Landscape. Nor would it contribute towards the provision of green infrastructure. Consequently, the proposal

² Swift Ecology Ecological Impact Assessment reference C4016-1, dated 2 May 2023

would be contrary to Policies SWDP 5, SWDP 21, SWDP 23 and SWDP 25 of the SWDP which, taken together, seek to ensure the provision of green infrastructure, ensure that development integrates effectively with its surroundings, complements the character of the area, conserves and enhances the Cotswolds National Landscape, resisting development that would have a detrimental impact, and seeks to ensure that development considers the landscape setting.

32. Moreover, the proposal would fail to comply with the advice and policies set out within the CNLMP and the Cotswolds AONB Landscape Strategy and Guidelines, including the Landscape Character Assessment for the area. Collectively these documents seek to ensure that change within the CNL and the landscape character areas is positive, seeks to manage change, and to conserve and enhance the natural beauty of the CNL.
33. For the same reasons, the proposal would conflict with paragraph 182 of the Framework, which states that great weight should be given to conserving and enhancing landscape and scenic beauty in National Landscapes, which have the highest status of protection in relation to these issues. The development would also conflict with paragraphs 135 and 180 of the Framework which, taken together, seek to ensure that development is sympathetic to the landscape setting, and contributes to and enhances the natural and local environment by, amongst other matters, protecting and enhancing valued landscapes and recognising the intrinsic character and beauty of the countryside.
34. The proposal would also not further the purpose of conserving or enhancing the natural beauty of the National Landscape as required by the LURA.

Heritage assets

35. The appeal site lies just outside the Ashton under Hill Conservation Area, which runs along Cottons Lane. Paragraph 212 of the Framework aims for development within the setting of a heritage asset to enhance or better reveal the significance of the asset. The Glossary to the Framework defines the setting of a heritage asset as the surroundings in which it is experienced. The site lies immediately adjacent to the Conservation Area and the Conservation Area is experienced from the site. As such the site lies within its setting.
36. The Ashton under Hill Conservation Area Appraisal (the CAA) supports the understanding of the importance of the area. As far as it is relevant to the appeal, I consider that the significance of the Conservation Area is mainly derived from the historic linear form of roads and narrow country lanes, and the strong relationship with, and views of, the surrounding rural landscape. The presence of hedges, gardens, trees, open spaces, grass verges and deep grassy banks are noted as significant contributors to the rural character of the village. The CAA describes the western end of Cottons Lane as an area where the open spaces and gardens of houses provide increasing gaps between development as the village gives way to countryside.
37. The appeal site, albeit outside the Conservation Area, currently contributes positively to the setting of the Conservation Area by reason of being a green, undeveloped, gap comprised of a deep bank between existing dwellings. Even in its current overgrown condition it does not detract from the setting of the Conservation Area. The site is also at the end of Cottons Lane where the village

is transitioning to the countryside beyond and provides views into the surrounding countryside.

38. The CAA notes that the area has an eclectic mix of buildings of different periods, including modern development. However, it also notes that the modern development has no predominant style and that some of it is inconsistent with the character of the Conservation Area. Pertinent to the appeal, the CAA notes that in Cottons Lane modern development lines both sides of the lower lane but that this gives way to a sporadic pattern of buildings sited in larger, irregular shaped, plots. The appeal site lies beyond the modern developments and within the area where the dwellings are older and more varied.
39. The loss of gaps between buildings and the construction of modern infill development of repetitive designs, layouts, building forms, and materials is noted in the CAA as a negative factor which has adversely affected the Conservation Area. Moreover, the CAA seeks to ensure that new buildings reflect the general pattern within the area, especially in scale, form, proportion, and detailing. It recognises that there may be scope for architectural invention provided this is sympathetic to the existing architecture of the place.
40. The two proposed dwellings would have green roofs and native landscaping planting to the rear garden areas which would remove the current overgrown appearance of the site. However, for the same reasons as given for the consideration of the effect on the National Landscape the proposed development, by reason of its scale, siting, massing and the effect on the steep bank, would result in harmful modern infill development in the setting of the Conservation Area.
41. Moreover, even though the development would not be highly visible from behind the site I have not been made aware that this is a primary public view. The dwellings would be clearly visible from Cottons Lane and the scale and modern design would be prominent and incongruous in the street scene. The development would, therefore, adversely affect the character and appearance of the area and, in my judgement, would result in less than substantial harm to the setting of the Ashton under Hill Conservation Area, detracting from the significance of this designated heritage asset.
42. Both main parties have also referred to two listed buildings, Coppice Cottage³ and Croft Cottage⁴, which are both Grade II Listed Buildings. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, (the Act) requires the decision maker, in considering whether to grant planning permission for development which affects a listed building, or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest.
43. The significance of Coppice Cottage is derived, in part, from its special architectural and historic interest. It is a handsome, part timber framed dwelling with a substantial stone chimney, set within a large garden area. It is positioned with its side elevation facing the edge of Cottons Lane, in an area where the village transitions to the countryside. The quality of design details and materials contributes substantially to its significance.

³ Listed Building: Coppice Cottage, List Entry Number: 1349963

⁴ Listed Building: Croft Cottage, List Entry Number: 1081667

44. Pertinent to the appeal the significance of the listed building is also derived, in part, from its setting. Its immediate setting comprises the garden land around the building which has direct, physical, functional, visual, and historic links with the asset. The wider setting in which Coppice Cottage is appreciated includes Cottons Lane and the open spaces around the immediate setting. Although Coppice Cottage is currently contained by roadside hedges there are views of the Listed Building available from Cottons Lane and these views would also include the appeal site.
45. The appeal proposal would be highly visible from Cottons Lane due to the removal of the roadside landscaping and the introduction of the parking areas. The appeal proposal would, therefore, be visible within the wider setting of Coppice Cottage and the listed building is not of such a distance so as not to be read together with the appeal proposal. However, the proposal would not reduce the ability of the observer to understand the significance of the heritage asset. I, therefore, find that the appeal proposal would not harm Coppice Cottage or its significance.
46. Croft Cottage is also timber-framed and is part thatched. The significance of the property is derived from this architectural and historic interest. As with Coppice Cottage the significance is also derived, in part, from its immediate and surrounding settings which includes the views from along Cottons Lane. However, there would be limited opportunities for views of Croft Cottage and the appeal development together. As such, the proposal would preserve the way the setting of Croft Cottage is experienced and therefore preserve the significance of the listed building.
47. Nevertheless, the lack of harm to the significance of the listed buildings would not outweigh the harm I have identified to the setting of the Conservation Area. Paragraph 208 of the Framework advises that where a development would lead to less than substantial harm this should be weighed against the public benefits of the proposal. I will return to this matter later.

Access

48. An amended plan and additional information have been provided in the visibility statement from Matthews Planning Limited. The amended plan indicates a different arrangement for the parking and landscaping to the front of the properties. However, as noted above this plan was not consulted on and not considered by the Council. Furthermore, this plan conflicts with the submitted block plan and, consequently, I would not be able to approve both the block plan and the highways parking and visibility markings plan.
49. Notwithstanding this, the plan submitted in the visibility statement does not indicate space for vehicles to turn, shows vehicles parked forward of the visibility splay and also requires land outside of the appellant's control to provide the required vehicle visibility splays. Consequently, although the visibility splays are measured the correct distance back from the road, they would not be from the position of a vehicle leaving the site and would not be capable of being maintained as unobstructed splays.
50. There is, therefore, a likelihood that vehicles would have to either reverse onto or off the parking area and unobstructed visibility from the access is not available. The submitted visibility statement, although now indicating sufficient space for three cars and three bicycles per dwelling, does not indicate a

suitable means of access is available for the proposed development. The block plan which was considered by the Council does not show any visibility splays and, therefore, also would not indicate a suitable means of access. That there are other dwellings on Cottons Lane with substandard visibility splays would not justify a new development being provided with such.

51. For the above reasons, the proposal would not achieve acceptable parking and access arrangements for the proposed development. It would, therefore, be contrary to Policies SWDP 4 and SWDP 21 of the SWDP which, amongst other matters, requires development to address road safety, have regard to the national and local design criteria listed, provide satisfactory access and provision for the parking, servicing, and manoeuvring of vehicles, and allow vehicle traffic to be able to access the highway safely.
52. Although the proposal would not result in severe residual cumulative impacts on the road network when assessed against paragraph 115 of the Framework the scheme would result in vehicle movements on and off the highway which would adversely affect highway safety. Accordingly, the proposal would be contrary to the advice at paragraph 114(b) of the Framework, which seeks to ensure that a safe and suitable access to the site can be achieved for all users.

Location

53. Ashton under Hill, as a category 2 settlement in the SWDP, would be a settlement where, in principle, new housing would be supported. At my visit I noted a public house, school, and church hall. I walked the full length of Cottons Lane from Elmley Road to the appeal site. The services and facilities within Ashton under Hill are within comfortable walking distance.
54. Cottons Lane is narrow, unlit, and does not have a footpath except for a raised section at the village end of the lane. There are also sections along the lane where the road narrows and there are limited places for a pedestrian to wait off the carriageway. Nevertheless, the lane is surfaced and was not in a poor condition. The slope and curvature of the road would serve to reduce traffic speeds and there is only one short section where the road narrows and the overgrown nature of the verge restricts opportunities for pedestrians to step off the road. However, I was able to see if a vehicle was coming towards me before walking along it.
55. Moreover, Cottons Lane also serves as a public right of way (PROW) and although country lanes and non-busy roads are not always attractive walking environments my impression of walking along Cottons Lane was that it is pleasant. The lane is already used as a shared surface for walkers, other users of the PROW, and vehicles, including large vehicles accessing the farm at the end of the lane.
56. Cottons Lane, albeit constrained, would not, in my judgement, prevent the future occupiers of the houses from walking or cycling to the facilities within Ashton under Hill. Bus stops are located close to the village end of Cottons Lane, on Elmley Road, which provide access to higher order settlements.
57. Future occupants of the development would need to leave the village to access higher order services and facilities such as secondary education, health and medical facilities, and some places of employment or for certain leisure activities and for all shopping. Bus travel would not be convenient for

everyone's lifestyle or work/shift patterns. Nonetheless, the existing bus service would give future residents the choice to use public transport to access certain facilities at reasonable times for an average work/school week. Moreover, the Framework recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas.

58. The bus service, coupled with the range of day-to-day facilities available in the village within walking and cycling distance, would give future residents a genuine choice of sustainable modes of transport, which would, in turn, help to reduce reliance on the private car.
59. For the above reasons, I find that the proposed development would provide a suitable location for housing, having regard to the accessibility to services and facilities, and is a location that would have access by a choice of modes of travel. I, therefore, find no conflict with Policies SWDP 1 or SWDP 4 in regard to this matter. Collectively, these policies, amongst other matters, seek to minimise the demand for travel, offer genuinely sustainable travel choices, and seek to maximise opportunities for pedestrian and cycle linkages to the surrounding area.
60. The development would also comply with the advice set out in paragraphs 109 and 114(a) of the Framework which seek to focus growth on locations which are, or can be made, sustainable, limit the need to travel, and offer a genuine choice of transport modes, whilst recognising that this will vary between urban and rural areas.

Other Matters

61. The proposal is defined in the description of development as for two self-build dwellings. The Self Build and Custom Housebuilding Act 2015 (the 2015 Act) requires local planning authorities to establish and publicise a local register of custom-builders who wish to acquire suitable land to build their own home. The Housing and Planning Act 2016 sets out that local planning authorities have a duty to grant planning permission in respect of enough serviced plots of land to meet the demand for self-build and custom housebuilding in the authority's area arising in each base period. Authorities must have regard to the Register when carrying out their planning functions, including making decisions on planning applications.
62. At the time of the submission of the Council's evidence the cumulative supply was 90 plots. The number of permissions given for self/custom-builds is, therefore, above the demand figure of 83 identified in the Self-Build and Custom Housebuilding Register. The appellant has not challenged these figures. However, the provision is not a maximum and I accept that the demand figure will increase over future base periods. Moreover, there is little evidence that the permissions would all be built out. The provision of two additional units of this type would accord with Paragraph 63 of the Framework through providing housing for different groups in the community.
63. Nevertheless, although described as self-build dwellings the appeal before me is for a full planning permission with the layout, scale and design of the dwellings submitted for consideration. I have no evidence to show how the initial owner of each of the homes has had primary input into its final design and layout. Consequently, I cannot be certain that the appeal proposal would comply with the 2015 Act and genuinely provide self-build dwellings.

64. Moreover, I have no means, such as a signed legal agreement, to secure the two dwellings as self-build. As such, without an appropriate means to secure the development as self-build, I am not able to give this benefit any weight in the decision.
65. The Council has also sought a contribution towards affordable housing, in line with Policy SWDP 15 of the SWDP. The appellant has agreed to the contribution and has indicated that a unilateral undertaking under s106 of the Act would be submitted during the appeal process. However, although I have been made aware that there have been issues with the agreement it has not been completed and submitted. Nevertheless, as I am dismissing the appeal for other reasons, the decision would not turn on this matter.
66. The Council has also referred to Policy SWDP 26 of the SWDP in their reasons for refusal. Policy SWDP 26 seeks to ensure that all new development is provided with superfast broadband or alternative solutions. However, both main parties agree that this matter could be resolved through the imposition of a suitably worded condition if I were minded to allow the appeal. Policy SWDP 26 does not relate to any of the main issues above and I do not find any conflict with this policy.
67. The appellant has referred to the Council not working proactively with them, as is suggested by Policy SWDP 1 of the SWDP and the Framework. However, the Council are not duty bound to negotiate to make a scheme acceptable and have assessed the proposal that was submitted to them and considered it against the development plan.
68. Both main parties have also referred to pre-application advice and I have been provided with the details of the scheme submitted at that stage, and the Council's response. Although the pre-application response from the Council suggested no objection in principle to the development of two dwellings on the lower part of the site the response noted that the site was outside the development boundary, would have a detrimental effect on the Conservation Area, and raised concerns with the design of the proposed dwellings. The appeal scheme is not substantially different to the pre-application scheme. Nevertheless, I have made my decision based on the evidence before me.

Heritage and Planning Balance

69. The development would provide two additional dwellings with the associated social and economic benefits both during and post construction. There would be environmental benefits from the use of renewable and low carbon energy, the use of passive heating and cooling, and the biodiversity enhancements to which I attribute moderate weight. It would also accord with the Framework's aim to boost the supply of housing. However, although I afford significant weight to the provision of new houses, as only two dwellings are proposed this benefit is limited when weighing the merits of the scheme.
70. The Framework advises that any harm to the significance of a designated heritage asset should require clear and convincing justification and that great weight should be given to the asset's conservation, irrespective of the level of potential harm. The public benefits of the proposal are afforded moderate to limited weight and, therefore, would not outweigh the effect of the development on the setting of the Conservation Area and the harm to the significance of the heritage asset.

71. For the above reasons, I find that the proposal would have an adverse effect on the character and appearance of the area, and the setting of the Ashton under Hill Conservation Area, contrary to Policies SWDP 6, SWDP 21 and SWDP 24 of the SWDP. Collectively these policies expect development to conserve and enhance heritage assets and their settings, protect their contribution to the character of the landscape, require high quality design that integrates with its surroundings and complements the character of the area, and only supports new and innovative designs where they enhance the overall quality of the built environment.
72. The proposal would also not align with the guidance set out in the Framework which aims for development within the setting of a Conservation Area to preserve those elements of the setting that make a positive contribution and seeks to ensure that new development also makes a positive contribution.
73. Both main parties agree that the Council cannot currently demonstrate a five-year housing land supply. As the Council's emerging Local Plan is now at Regulation 19 Stage, the latest revisions to the Framework require a four-year housing land supply. However, given the substantial shortfall, which is in the region of 2.78 years, I find that the Council would not be able to demonstrate a four-year housing land supply.
74. However, as set out at footnote 7, if the policies in the Framework relating to the National Landscape and heritage assets provide a clear reason for refusing the development proposed, then the 'tilted balance' is disengaged. In this case, I have found that the harm to the National Landscape and the Conservation Area would provide a clear reason for refusing the proposal. Consequently, the presumption in favour of sustainable development as set out in paragraph 11d) of the Framework does not apply.

Conclusion

75. For the reasons given above the appeal should be dismissed.

K Townend

INSPECTOR