



Appeal Decision

Site visit made on 27 August 2024

by R Gee BA (Hons) Dip TP PGCert UD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 November 2024

Appeal Ref: APP/W2845/W/24/3337364

Whittlebury Park, Whittlebury, Towcester, Northamptonshire NN12 8WP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for outline planning permission
 - The appeal is made by Whittlebury Hall & Spa Ltd against West Northamptonshire Council.
 - The application Ref is 2023/6537/OUT.
 - The development proposed is described as creation of an indoor/outdoor Wedding Ceremony facility, in conjunction with returning the Greenkeepers Compound to formerly approved location.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Whittlebury Hall & Spa Ltd against West Northamptonshire Council and an application for costs was made by West Northamptonshire Council against Whittlebury Hall & Spa Ltd. These applications are the subject of a separate Decision.

Preliminary Matters

3. The application is in outline form with all matters (appearance, access, landscaping, layout and scale) reserved to be determined at a later date. The appellant has submitted indicative plans, including a block plan and elevations. This gives an indication of the siting of the proposed building. I have therefore taken these into account in establishing whether it would be possible, in principle, to accommodate the proposal on the appeal site.
4. The application was made in the name of Whittlebury Hall & Spa Ltd. On the appeal questionnaire the appellant's name is Whittlebury Park Enterprises LTD. I have proceeded with the appeal on this basis. In my banner heading above, I have used the site location as stated on the planning application form.
5. I have determined this appeal on the basis of the Council's failure to determine the planning application within the statutory timescale. The main issues below are taken from the information contained within the Council's statement and the appellant's statement of case.
6. The development plan includes the Joint Core Strategy (JCS) Local Plan Part 1 and the South Northamptonshire Local Plan Part 2 (LPP2). The Council is also

producing a new local plan, but this is at an early stage in the formal process and its provisions can only be afforded very limited weight.

7. Since the submission of the appeal a revised National Planning Policy Framework (the Framework) was published in December 2023. Those parts of the Framework most relevant to this appeal have not been amended. As a result, I have not sought further submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by taking this approach.
8. In addition, on 30 July 2024 the Government published a consultation on proposed reforms to the Framework and a written ministerial statement. While these proposed changes can only be given limited weight at this stage, those parts most relevant to the appeal are not proposed to be amended. As a result, I consider that there is no requirement for me to seek further submissions in respect of these matters, and I am satisfied that no party's interests would be prejudiced by my taking this approach.
9. As part of the appeal, the appellant has submitted an Initial Survey Assessment¹ (ISA) in response to the Council's concern in respect of ecology. I note that the Council has commented on this document in terms of its response to the appeal. I cannot be certain that this document has been subject to wider publicity. However, this is a technical document which does not alter the location or nature of the scheme which was subject to wider publicity. As such I shall accept the ISA for the purposes of this appeal and do not consider that any interested party would be prejudiced by my acceptance of this technical evidence.

Background and Main Issues

10. Although there is no formal decision from West Northamptonshire Council (WNC), it has offered putative reasons for refusal. Accordingly, the main issues are:
 - i) the effect of the proposal on ecology, including having regard to the adjacent ancient and semi-ancient woodland;
 - ii) the effect of the proposal on archaeology; and
 - iii) the effect of the proposal on the site's drainage and flood risk.

Reasons

Ecology

11. The appeal site lies within the confines of an established leisure and recreational development. It forms part of a potential non-statutory designated site (potential Local Wildlife Site). It lies immediately adjacent to a wooded area which forms part of a designated Local Wildlife Site (LWS) and is proximate to the Whittlewood Forest Site of Special Scientific Interest (SSSI).
12. The appeal site comprises short, managed grassland. The evidence before me indicates that this land has been used, in conjunction with the adjacent hard surface and existing buildings, for corporate events. I therefore concur that the appeal site itself is likely to be of limited ecological value.

¹ Cherryfield Ecology dated 24 June 2024

13. The Whittlewood Forest SSSI is located to the east of Whittlebury Park, separated by the A413. Given the location of the appeal site a significant distance from the SSSI, I am satisfied that the proposal would be unlikely to have any adverse impact on it.
14. Notwithstanding the above, I observed a high level of mature vegetation and tree cover directly adjacent to the appeal site's western boundary. I understand this to be ancient and semi-ancient woodland that forms part of a designated Local Wildlife Site (LWS). Ancient woodland is a UK Biodiversity Action Plan habitat, as well as being defined as irreplaceable habitat under the Framework.
15. Given the proximity of the appeal site to the adjacent woodland the proposal has the potential to adversely impact upon it. Although indicative, the plans submitted provide some parameters for assessment. The plans indicate that a sizeable greenkeepers building would be close to the boundary of the woodland, with areas of hardstanding, bunkers and the vehicular access serving the proposed building close to the shared boundary. Based on the information before me, given the nature of the proposed use, it is likely that there would be noise and disturbance, including lighting, associated with the activities to be undertaken.
16. The ISA notes that the adjacent ancient and semi-ancient woodland offers potential for nesting habitat for birds and reptiles. However, it suggests that the trees offer low potential for roosting bats due to a number of broken limbs, split bark and knot holes. Whilst I note the photographs within the ecological submission, I do not consider this to be a robust assessment of the adjacent woodland and the impact of the proposed development upon it.
17. Furthermore, the appellant's submission refers to the need for a protective buffer between the woodland and the proposed works. However, having regard to the overall size of the appeal site, its location immediately adjoining the boundary of the woodland and the indicative plans I am not persuaded that there is scope for adequate mitigation by providing an appropriate buffer zone. Whilst the appellant states that Natural England and the Council's Tree Officer has no objection to the proposed distances there is little evidence to substantiate this, with the Council indicating that this relates to a different development and location. Accordingly, from the evidence before me, given the proximity to the ancient and semi-ancient woodland it is unclear whether any adverse effects could be mitigated. This would need to be established before permission is granted.
18. Whilst there may have been some lighting adjacent to the woodland boundary in conjunction with corporate and wedding events, I consider that such temporary uses are not comparable to the appeal proposal before me.
19. I note that the ISA recommends that any lighting is directed away from the woodland to provide a sheltered unlit corridor parallel to it for any wildlife such as foraging/commuting bats. Given the foregoing concerns, a condition would not be sufficiently precise to overcome the harm, and therefore not meet the Framework tests and guidance in the Planning Practice Guide (PPG), as it may be that suitable arrangements needed for the operation of the proposed development cannot be accommodated without adversely affecting the integrity of the LWS.

20. There is dispute between the parties as to the appropriate level of assessment at the outline stage. It is necessary that ecological surveys are carried out as part of the consideration of this outline planning application and before planning permission is granted, as stated in ODPM Circular 06/2005. This approach is necessary as it would determine whether it would be possible, in principle, to approve planning permission in the knowledge that either the development would not cause harm to protected species, or that appropriate mitigation could be put in place to ensure that protected species were not harmed.
21. Paragraph 180 of the Framework states that planning decisions should contribute to and enhance the natural and local environment by protecting and enhancing sites of biodiversity or geological value in a manner commensurate with their statutory status or identified quality in the development plan. Whilst accepting the scheme is in outline form, having regard to the evidence before me, and noting that the adjacent land is designated for its ecological importance, I am unable to determine the nature and extent of any impact, and any measures required to mitigate any resultant harm. Therefore, I cannot be certain that the proposed development would not be harmful.
22. Whilst the appellant states that many planning consents for developments² immediately adjacent to these woods have been constructed, I do not have full details of the cases or the information available to the decision-maker. In any event, I have determined the appeal on its own merits.
23. As such, I conclude that there is insufficient evidence to demonstrate that the proposal would not have a harmful effect on biodiversity and ecology. Furthermore, I am not satisfied that it would be possible to deal with this by condition. I therefore find that the development fails to accord with Policy BN2 of the JCS which states that where development has the potential to harm sites of ecological importance will be required to demonstrate: the methods used to conserve biodiversity in its design, construction, and operation, how habitat conservation, enhancement and creation can be achieved through linking habitats, how designated sites, protected species, and priority habitats will be safeguarded. It has also not been demonstrated that the proposal would meet the requirements of the Framework which seeks to conserve and enhance biological diversity.

Archaeology

24. The Framework states that where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.
25. The supporting text to Policy EMP5 of the LPP2 states that several locations near the site have been identified as being of archaeological interest. The appellant asserts that extensive ground stripping occurred during the

² [1] 2013 - UTC University Technical College development on a 5 hectare site; [2] 2023 - Silvestone Escapade development of 60 residences on 6.5 hectares; [3] 1991 - (a) Pavilion & Sports ground (b) Extended in 1998 to add a function room for 300+ [4] 2000 - (a) Orangery - (b) Extended in 2010 to add a function room and staff accommodation; [5] 1998 - (a) Hall with 117 bedroom and conference block and car park for 450 vehicles (b) Hall Spa extension 2003 (c) Hall Brooklands function room for 750+ and 100 additional bedrooms and 100 parking spaces; and [6] 1998 - Farm and Campsite Store

construction of the golf course, including the sports ground which was levelled and drained, and nothing of archaeological value was found.

26. I consider the appeal site be of low archaeological risk. Details of access and layout are reserved matters and therefore I am satisfied that the requirements for further archaeological investigations could be dealt with by a pre-commencement planning condition if the appeal were to succeed.
27. While the Council refers to a proposal³ that they consider lends support for their request for additional information prior to determination, based on the information before me I do not consider the proposals to be comparable.
28. Subject to the imposition of a suitably worded condition the proposal would accord with the general aims of policies BN5 of the JCS, and HE1 and HE2 of LPP2. Collectively, these policies seek to appropriately conserve and manage heritage assets.

Drainage and Flood Risk

29. The evidence before me indicates that the appeal site is within an area of very low flood risk.
30. In summary, the drainage strategy seeks to discharge surface water from the proposed development via existing land drains across the golf course into ponds/lakes within Whittlebury Park estate, which discharge into a watercourse located to the south of the site. It is noted that connections for the greenkeeper's facilities would be made to the existing foul drains at the Pavilion.
31. Mindful of the scale of the proposed development and that the proposal is in outline form, it is considered that sufficient information has been submitted to show that satisfactory surface drainage arrangements could be secured if I was minded to allow the appeal, and that the development would incorporate satisfactory foul drainage.
32. Accordingly, subject to appropriate conditions, the proposal would not conflict with the aims of Policy BN7 of the LPP2 with regard to considering the potential impact of flooding on new development, ensuring that flood risk is not increased elsewhere and incorporating sustainable drainage systems into major developments where feasible.

Other Matters

33. The appellant submits that following a Screening Opinion⁴ the proposal was determined not to be Environmental Impact Assessment development. This is not disputed. However, the screening provisions do not negate the need for ecological submissions to support an application. Nor does it mean that there would be no environmental issues to consider during the application stage.
34. The appellant refers to a 2019 Masterplan. However, this pre-dates the adoption of the LPP2. The Masterplan indicates that the parcel of land identified as c) Pavilion & Orangery could accommodate potential facilities including an indoor/outdoor ceremony area. Be that as it may, the area of land is not specific to the appeal site only.

³ Low Carbon Solar Park v SSLUHC [EWHC][20]

⁴ Town and Country Planning (Environmental Impact Assessment)(Amendment) Regulations 2017

35. The LLP2 recognises the estate's needs for a variety of accommodation to meet their evolving business needs. Policy EMP5 (LPP2) relates specifically to leisure and tourism at Whittlebury Hall. This policy sets out the need for an indicative masterplan to be prepared and agreed with the local planning authority (LPA). It is understood that no masterplan has been agreed by the LPA. Whilst the absence of a masterplan does not preclude development at the site, Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that decisions on planning applications should be made in accordance with the development plan unless material considerations indicate otherwise.
36. I have considered the various benefits advanced by the appellant that the proposal would bring, including providing additional wedding venue accommodation and associated economic benefits both during construction and when in use. I also recognise the operational benefits that would arise by moving the greenkeepers compound. I note the environmental credentials of the proposed development in terms of the inclusion of energy efficiency measures, landscaping and a sound buffer. However, these factors carry no more than limited weight in favour of the development and these modest benefits would not be sufficient to outweigh the harm I have identified.
37. I recognise that the wider estate has been the subject to numerous planning decisions⁵. The appellant seeks to draw similarities for a development⁶ approved within the Park site boundary. Whilst I do not know the full details of the case, and the information before the decision-maker, it is understood that this related to a single storey extension and was determined a significant time ago. Accordingly, I cannot be certain that the schemes are comparable.
38. The appellant has drawn my attention to the Silverstone circuit and its associated leisure and recreational facilities, and in particular a recent '60 Dwelling Village'. I am not aware of all the information before the decision-maker. However, from the limited evidence before me, the description of development and location differ. I therefore do not consider the development to be directly comparable to the appeal scheme before me. In any event, I have determined the appeal on its own merits.
39. My attention has been drawn to a recent dismissed appeal⁷ at Whittlebury Park. From the information before me the proposal relates to a different description of development and a different parcel of land. Due to the limited evidence before me I am unable to draw direct comparisons with the scheme before me. In any event, each case must be dealt with on its own merits.
40. The appellant states that events such as the Covid pandemic have impacted upon the business at Whittlebury Park. I have no reason to disagree. Nevertheless, I have no substantive evidence before me that without the proposed development the existing business would not be viable.
41. Concerns regarding the processing of the application by the Council, including validation, do not alter my findings in respect of the main issues.
42. I have had regard to the extensive submissions made by the appellant. However, these do not alter my findings on the main issues.

⁵ Appendix Appeal Decision Notices Relating to Whittlebury Park

⁶ 2024/2270/OUT

⁷ APP/W2845/W/23/3326508.

Conclusion

43. My findings bring the proposal into conflict with the development plan when read as a whole. There are no material considerations, including the Framework, that indicate a decision should be made other than in accordance with it.
44. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal is dismissed, and planning permission refused

R Gee

INSPECTOR