



Appeal Decision

Site visit made on 5 November 2024

by K Townend BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 December 2024

Appeal Ref: APP/H1840/W/23/3335809

Land at Dorsington Road, Pebworth CV37 8XD

- 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 Centaur Homes Ltd against the decision of Wychavon District Council.
 - The application Ref is W/22/02306/OUT.
 - The development proposed is outline application for the erection of 4no. self-build dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The site address is taken from the appeal form as this provides the correct postcode for the site.
3. The appeal relates to an application for outline planning permission with all matters, except for access, reserved for subsequent consideration. Therefore, I have treated the illustrative masterplan as one way that the site could be developed.
4. The Council has referred to the South Worcestershire Development Plan Review (the emerging plan). It has advised that the plan was submitted to the Planning Inspectorate for examination in September 2023 and therefore the emerging plan, 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 plan.
5. As part of the appeal, the appellant has submitted two Technical Notes: Ecology – November 2023, and Biodiversity Net Gain – November 2023, and a Biodiversity Net Gain Small Sites Metric. Section 16 of the Procedural Guide: Planning Appeals – England, 2023, advises that the appeal process should not be used to evolve a scheme and that it is important that what is considered by the Inspector at appeal is essentially the same scheme that was assessed by the Council and interested parties at the application stage. In deciding whether to accept the amended plans I have had regard to the judgment in *Holborn Studios Ltd v The Council of the London Borough of Hackney* [2017] EWHC 2823 (Admin).
6. The additional information does not result in a fundamental change to the nature of the proposal over what was considered at the planning application stage. It provides additional information to support the appellant's statement of

case. Moreover, the Council has seen copies of the three additional documents and has provided comments on these within the statement of case. The additional information would, also, not alter the effect of the proposal on the neighbouring residents. Consequently, no party would be unfairly prejudiced and, I have, therefore, considered the additional ecology information as part of the appellant's evidence in determining this appeal.

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 development on the significance of heritage assets, including the character and appearance of the Pebworth Conservation Area; and the setting of 1, 2 and 4 St Peters Court, which are Grade II listed buildings;
- the effect on biodiversity; and
- whether there are any benefits of the proposal that might outweigh any harm to heritage assets, or any conflict with the development plan, with particular regard to the delivery of self-build and custom housing.

Reasons

Suitability of location

8. The appeal site is a grassed paddock on the edge of Pebworth, a Category 3 village with a range of services. It lies outside of, but adjacent to, the settlement boundary for Pebworth as identified in the South Worcestershire Development Plan, adopted 2016, (the SWDP). Albeit that the site shares three of its sides with the settlement boundary and the proposed development would be close to existing built form it 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 beyond any development boundary.
9. The proposal would not fall within any of the limited forms of development set out as exceptions to Policy SWDP 2. The location of the proposal, even though it is well-related to the settlement both physically and visually, would, therefore, be contrary to the development strategy for the area.
10. I have not been made aware of any policies within the emerging plan that would support the proposed development and, based on the evidence before me, the site would continue to be outside the settlement boundary. Consequently, the proposal would also fail to comply with the emerging plan.
11. For the above reasons, the appeal site would not provide a suitable location for housing, having regard to the development strategy for the area, it would, therefore, conflict with Policies SWDP 1 and SWDP 2 of the SWDP which, taken together, provide the settlement hierarchy for the area, seek to safeguard and enhance the open countryside, and strictly control development beyond any development boundary.

Heritage assets

12. Part of the appeal site lies within the Pebworth Conservation Area, the rest of the site lies immediately adjacent to it. 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 part of the site that is outside of the conservation area is not distinguishable from the part that lies within it. Moreover, the conservation area is experienced from the site and the site is experienced from the conservation area. As such the site lies within its setting.
13. The Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) (the Act) provides, at section 72(1), that with respect to any buildings or other land, in a Conservation Area, special attention shall be paid to the desirability of preserving or enhancing the character, or appearance of that area.
14. The Pebworth 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, in part, derived from the historic buildings and layout of the village which is still evident even with more recent developments. Trees, gardens, open spaces, and the landscape setting of the village also make a positive contribution to the character of the conservation area and provide a strong connection with the countryside around the village and the Village Claylands Landscape typology in which the appeal site lies.
15. The CAA advises that the open spaces contribute to its loose and informal layout. Even though the appeal site is not a publicly accessible open space it is still an area of open space within the village which is appreciated from public viewpoints. The absence of development on the site contributes positively to the understanding and appreciation of the conservation area and its spacious and loose character and appearance. It also contributes positively to the character and appearance of the village.
16. Views from the footpath adjacent to the site are noted in the CAA as significant views. The views from the footpath towards the site may not be the expansive rural views noted in the Pebworth Parish Neighbourhood Plan (the NP) and, from my experience, these views are filtered, as noted in the appellant's Landscape and Visual Appraisal. However, although views from this footpath are limited to glimpses through the trees and hedges there remains views of the open paddock and the village beyond, especially from the corner of the appeal site where there is less landscaping on the boundary.
17. While the proposal for four dwellings would relate to other housing development in the immediate area, and a scheme could be designed to fit in with the surrounding built form, the introduction of four houses on the appeal site, even if they were low-scale buildings, would result in built development on this open area and would not enable the sense of openness to be retained. The views from the footpath would be changed through the introduction of built development closer to the footpath even with the provision of additional landscaping along the boundary and the development would not preserve the spacious character and appearance of the conservation area.

18. There would also be views of the development from Dorsington Road as it passes the site and from near the access to the converted agricultural buildings. These views, which are currently seen in the context of the open countryside beyond, as well as the other housing in the village, would be altered with the proposed development, albeit that additional screening would be planted.
19. The paddock currently provides an important area of open space on the edge of the village and an area of transition between the built development and the open fields around. The domestication of the farm at St Peters Court and other developments around the village do not dilute the contribution that the appeal site makes to the setting of the conservation area or the character and appearance of the village as a whole. The proposed development on the site would introduce new built development and would, therefore, fail to preserve or enhance the character and appearance of the conservation area. This would result in less than substantial harm to the conservation area.
20. Furthermore, the formation of an access of sufficient standard to support the traffic for four dwellings would likely introduce a suburban-style road to the edge of the village. Whilst the roadside hedge could be replanted behind the visibility splays the widening of the access and the set back of the hedge would be out of keeping with the character of the village and open up views into the site, removing the current views of the open area.
21. Numbers 1 and 2 St Peters Court is the former Barn and Dovecote at Baldwins Farm. It is Grade II listed. Number 4 St Peters Court is also a former barn associated with the farm and is Grade II listed for its group value. As a group of buildings, albeit now converted to residential use, the historic agricultural use is still identifiable. It is this understanding of the historic use and the appearance of the buildings which forms the significance of the listed buildings. The conversion has resulted in some domestication of these buildings but has been carried out sensitively. Even though the conversion scheme has included boundary treatments that have separated the buildings from the agricultural land, which previously would have been associated with the farm, the appeal site can be seen from the listed buildings. Moreover, the buildings can be seen, and their historic significance appreciated, from the appeal site.
22. Due to the visual connection between the site and the listed buildings, and the functional connection of the farmland both on the appeal site and beyond with the previous farm buildings, the appeal site makes a contribution to the significance of the setting of these listed buildings. The appeal site also currently makes a positive contribution to the way the listed buildings are appreciated from the wider area.
23. The visual connection between the listed buildings and the farmland has been reduced through the compartmentalisation of the curtilage of the barns and the introduction of domestic activity. Nevertheless, the development of the site would remove the last link between these listed buildings and the farmland on the edge of the village and would add further built development rather than just domestic boundaries between the listed buildings and the farmland.
24. The development of the appeal site would, therefore, result in harm to the significance of the setting of these listed buildings and harm to the way the

buildings are appreciated. The appellant seeks to argue, within the Heritage Impact Assessment, that this is at the lowest end of a theoretical spectrum of less than substantial harm. However, there would be harm.

25. Due to intervening buildings between the appeal site and the Grade I listed St Peters Church the site is not within the setting of the church.
26. Nevertheless, for the above reasons, I find that the site is within the setting of 1, 2 and 4 St Peters Court and the appeal proposal would not preserve that setting and would result in harm to the significance of the setting and the way the listed buildings are appreciated.
27. Moreover, the proposal would fail to preserve or enhance the character and appearance of the conservation area and cause less than substantial harm to its significance. The appellant's evidence also suggests that this harm is at the lowest end of less than substantial. Even so, there is harm, and this harm must be attributed great weight within the context of the Framework. The Framework does not require the extent of less than substantial harm to be qualified. The Framework sets out that the harm to the CA must be weighed against the public benefits of the proposal and the harm to designated assets must be taken into account in reaching my decision. I shall return to this later.

Biodiversity

28. The additional biodiversity information noted in preliminary matters has confirmed there was no evidence of bats on the appeal site and that the retention of the trees would ensure that the development would not adversely affect bats. I have no evidence to the contrary and no reason to find otherwise.
29. However, there are records of Great Crested Newts (GCN) in the area and there is a pond between the appeal site and the converted agricultural buildings. The appeal site is also rough grass which, even though it has been used for the grazing of horses, is also enclosed in well-established hedges and adjacent to open fields. As such I consider that there is a likelihood of protected species being present in the locality.
30. Circular 06/2005¹ states that "it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision". Ecological mitigation should only be employed where it is not possible to avoid the impact. Furthermore, mitigation measures should be specific to an identified harm. Without fully understanding the baseline ecological potential of the site it is not possible to know whether there is an impact on biodiversity, whether there is an opportunity to avoid the impact, or what mitigation could be used.
31. Even if I were to accept the appellant's evidence that the pond scores low on the habitat score index, due to being located within a managed lawn, covered by duckweed and with restricted marginal vegetation, I cannot be certain that the pond, land surrounding it, and the appeal site, are not suitable habitat for GCN, even if the pond is not a breeding site for this species. The finer details

¹ ODPM Circular 06/2005: Government Circular: Biodiversity and Geological Conservation – Statutory Obligations and their impact within the planning system.

of the mitigation strategy and landscaping could be secured by condition, once the baseline and presence, or otherwise, of protected species has been established. It is not appropriate to condition the requirements for a survey to establish the baseline. Given the advice in Circular 06/2005, without a detailed ecological survey for GCN I cannot be certain that any harmful effects arising from the proposal could be adequately avoided or mitigated.

32. The requirement for 10% biodiversity net gain (BNG) set within the Regulations would not apply to the appeal before me as the planning application was submitted to the Council before the relevant date. Nevertheless, Policy SWDP 22 of the SWDP requires development to enhance biodiversity and the Framework seeks to resist development that effects biodiversity.
33. The Technical Note on BNG and the revised BNG assessment provided with final comments, argues that 13.82% would be achievable. However, this is based on the indicative layout and would be subject to changes at the reserved matters stage. At this outline stage I cannot be certain that the development would deliver the level of BNG indicated.
34. Nevertheless, I have no compelling evidence that a scheme could not be designed to provide some biodiversity enhancements so as to comply with Policy SWDP 22 of the SWDP and the requirements of the Framework.
35. Given the above, in the absence of the further survey work, I cannot be satisfied that the proposal would not result in an adverse effect on biodiversity. It would, therefore, conflict with Policy SWDP 22 of the SWDP which, amongst other matters, seeks to resist development that would compromise the favourable conservation status, or result in loss or deterioration, of protected species, and seeks to conserve on-site biodiversity corridors/networks.
36. For the same reasons, the development would also be contrary to the requirements of the Framework and specifically paragraph 180d) which seeks to minimise impacts on biodiversity.

Other considerations

37. 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.
38. At the time of the submission of the Council's evidence the cumulative supply was 85 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's evidence suggests that the Council has only approved 81 units and that, even though the Council has recently delivered on self-build permissions, there was under delivery in the

first three base periods. Moreover, the appellant has quoted the need for the base period up to October 2026 indicating a demand for more plots.

39. Notwithstanding the evidence from both parties, the demand figure is not a maximum and I accept that it would increase over future base periods. Moreover, there is little evidence that all of the permissions granted would all be built out.
40. If built, the proposal would be certain to contribute to the requirement and this contribution should be given weight in the planning balance. Given the statutory duty upon the Council to provide sufficient self/custom build plots, the delivery of an additional four units would, therefore, be a significant benefit and would accord with Paragraph 70 of the Framework through providing a small site for self-build and custom-build housing.
41. However, I have no means, such as a completed S106 agreement or Unilateral Undertaking, to secure the development as self/custom-build. This, therefore, reduces the weight to be given to the development as self/custom-build.
42. The Council has also sought a contribution towards off-site affordable housing, in line with Policy SWDP 15 of the SWDP. The appellant has agreed to the contribution and has submitted a Unilateral Undertaking during the appeal process. However, the Council has raised concerns with the appropriateness of the agreement. Nevertheless, as I am dismissing the appeal for other reasons, the decision would not turn on this matter.

Heritage and Planning Balance

43. The development would provide four 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, and some biodiversity enhancements to which I attribute moderate weight. It would also accord with the Framework's aim to boost the supply of housing and also seeks to contribute to the need for self/custom build housing.
44. Although I afford significant weight to the provision of new houses, as only four dwellings are proposed this benefit is limited when weighing the merits of the scheme. While the statutory duty to provide self/custom build housing significantly increases the weight to be given to this issue, this would be at the expense of irreversible harm to the conservation area.
45. 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 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 assets.
46. For the above reasons, I find that the proposal would have an adverse effect on the significance of heritage assets, including the character and appearance of the Pebworth Conservation Area; and the setting of 1, 2 and 4 St Peters Court, which are Grade II listed buildings, contrary to SWDP 2, SWDP 6, SWDP 21, SWDP 24 and SWDP 25 of the SWDP which, taken together, seek to ensure that development is of an appropriate scale and type with regard to the local landscape character, conserves and enhances heritage assets, including

their setting, protects their contribution to the character of the landscape, integrates effectively with its surroundings, complements the character of the area, and takes any available opportunities to enhance the landscape. These policies are consistent with the Framework and the harm to the conservation area would result in conflict with the development plan, read as a whole.

47. For the same reasons, the proposal would fail to comply with Policies P3 and P5 of the NP which, amongst other matters, seek to ensure that development takes account of the conservation area appraisal, reflects the character of the area, and would not cause significant detriment to locally important views.
48. Furthermore, the location of the appeal proposal would be contrary to the policies that seek to direct the location of development in accordance with the spatial strategy. The location of the proposal would be contrary to Policies SWDP 1 and SWDP 2 of the adopted Local Plan and to the development plan as a whole. For this appeal, I have found policies SWDP 1 and SWDP 2 to be generally consistent with the relevant aims of the Framework.
49. 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 that the supply figure, as detailed in the Council's evidence is 2.78 years, this amounts to a substantial shortfall. Consequently, I find that the Council would not be able to demonstrate a four-year housing land supply.
50. However, my conclusion that the public benefits do not outweigh the less than substantial harm to the heritage assets provides a clear reason for refusing the development proposed when applying the Framework's policies that protect assets of particular importance. Thus, the proposal would not benefit from the presumption in favour of sustainable development outlined at Framework paragraph 11d), and the Framework, taken as a whole, does not support the proposal.

Conclusion

51. I, therefore, find that the proposal conflicts with the development plan and material considerations do not indicate that a decision should be made otherwise than in accordance with it. Accordingly, the appeal is dismissed.

K Townend

INSPECTOR