



Appeal Decision

Site visit made on 13 January 2025

by **R C Kirby BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 07 February 2025

Appeal Ref: APP/F1610/W/24/3344275

Hill View, Sapperton, Cirencester, Gloucestershire, GL7 6LE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant permission in principle.
 - The appeal is made by Estate of the Late Dowager Countess Bathurst against the decision of Cotswold District Council.
 - The application Ref is 24/00112/PLP.
 - The development proposed is Permission in Principle application for the erection of 1no. infill dwelling at Hill View, Sapperton, Gloucestershire, GL7 6LE.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal is for permission in principle. The Planning Practice Guidance (PPG) advises that this is an alternative way of obtaining planning permission for housing-led development. The permission in principle consent route has two stages: the first stage (or 'permission in principle' stage) establishes whether a site is suitable in-principle and the second ('technical details consent') stage is when the detailed development proposals are assessed. This appeal relates to the first of these two stages.
3. The scope of the considerations for permission in principle is limited to location, land use and the amount of development. All other matters are considered as part of a subsequent technical details consent application if permission in principle is granted.
4. The PPG explains that, in summary, that a decision on whether to grant permission in principle to a site following a valid application must be made in accordance with relevant policies in the development plan unless there are material considerations, such as those in the National Planning Policy Framework (the Framework) and national guidance, which indicate otherwise.
5. The Framework was revised in December 2024. The main parties were given the opportunity to comment on the changes made and I have taken these into account in my decision.

Procedural Issues

6. Certain types of development are excluded from the grant of permission in principle. A proposal that would constitute habitats development is one of the exclusions. The PPG explains that this means for sites where development is likely to have a significant effect on a qualifying European site or a European offshore

marine site without any mitigating measures in place, the local planning authority should ensure an appropriate assessment (AA) has been undertaken before consideration of the grant of permission in principle. If the local planning authority is satisfied, after taking account of mitigation measures in the AA and concluding that the development will not adversely affect the integrity of the protected site, then, subject to compliance with other statutory requirements regarding the permission in principle process, the permission in principle can be granted.

7. The appeal site is located within proximity to the Cotswolds Beechwoods Special Area of Conservation (SAC). The SAC's qualifying features are semi-natural grasslands and scrubland facies on calcareous substrates; dry grasslands and scrublands on chalk or limestone and beech forests on neutral to rich soils. The conservation objectives are to maintain or restore: the extent and distribution of qualifying natural habitats; the structure and function (including typical species) of qualifying natural habitats, and the supporting processes in which qualifying natural habitats rely.
8. The Cotswolds Beechwoods SAC Recreation Mitigation Strategy¹ (RMS) identifies that new residential development within the zone of influence would likely increase recreational visits to the SAC, and therefore increase disturbance to this habitat. There is therefore an impact pathway between additional residential development in the zone of influence and a resulting likely significant effect on the qualifying features of the SAC.
9. As recreational pressure would compromise the SAC's conservation objectives an adverse effect on its integrity cannot be ruled out. The RMS sets out a series of measures to mitigate the recreation impacts of new residential development, including Strategic Access Management and Monitoring ('SAMM'), which relates to managing access and engaging with visitors at the SAC. These measures involve increased staffing, signage and interpretation and Suitable Natural Alternative Greenspace ('SANG') or a contribution towards this to deflect access away from the SAC and provide alternative countryside destinations for people to visit for recreation.
10. The appeal site lies within the 15.4 kilometre zone of influence of the SAC. The occupation of the new dwelling would, in combination with other housing development be likely to adversely affect the integrity of the SAC through increased recreational pressure. In order to mitigate this harm the appellant has submitted a Section 111 Agreement which includes a financial contribution towards SAMM and SANG. As the payment has been made to the Council the mitigation requirements in the RMS have been secured.
11. Any application for technical details consent must specify the permission in principle to which the technical details consent relates. There is, therefore, a direct link between the mitigation payment, related to the permission in principle stage for this scheme, and the process of submitting and considering any subsequent technical details, including its effects on habitats sites.
12. The Council has indicated that Natural England worked collaboratively with it and other relevant Local Authorities in the production of the RMS. Natural England has confirmed² that the measures proposed, which would result from the submitted

¹ Footprint Ecology 11 May 2022

² By letter dated 5 February 2025

payment, would be sufficient to avoid or reduce impacts in order to maintain the integrity of the European site and its qualifying features.

13. In these circumstances, I am satisfied that the proposal, either alone or in combination with other schemes, would have no adverse effect on the integrity of the Cotswolds Beechwoods SAC. There is sufficient certainty that the adverse effect on the integrity of the habitats site and its qualifying features would be avoided. Consequently, when undertaking an appropriate assessment, I am satisfied that the scheme would accord with the requirements of the Conservation of Habitats and Species Regulations 2017.
14. The proposal would, therefore, not be habitats development and can be considered under the permission in principle application procedure. The scheme would also meet the associated requirements of Cotswold District Local Plan 2011-2031 (CDLP) Policies EN4 and EN8 which collectively support development that conserves and enhances biodiversity and geodiversity.

Main Issue

15. The Council has raised no objections on the grounds of land use and the amount of development proposed. Accordingly, the main issue is, therefore, whether the location of the appeal site and its relationship to designated heritage assets is suitable for residential development.

Reasons

16. The location of the appeal site is within the garden of Hill View, a grade II listed building, within the village of Sapperton. It is also within the Sapperton Conservation Area. To the north of the site is the Village Hall, also a grade II listed building.
17. Whilst the Planning Practice Guidance indicates that other statutory requirements may apply at the technical details consent stage such as those relating to listed buildings, this does not absolve me of my duty under section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the 1990 Act). This sets out quite clearly that "In considering whether to grant planning permission [or permission in principle] 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 which it possesses." In reaching this view I have had regard to the appeal decision³ where an Inspector adopted a different approach but have found differently to them for the reason set out above.
18. I also have a statutory duty under section 72 of the 1990 Act to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.

Listed Buildings

19. Hill View is a detached house from the late 17th century constructed of rubble stone featuring long and short flush quoins with a Cotswold stone-slate roof and 2 brick gable stacks. The special interest of Hill View arises in part from the historic and architectural interest as a vernacular village house built of historic materials

³ Ref: APP/Y3940/W/19/3238851

using traditional construction techniques, which despite alterations and additions remains legible and illustrative of its original design. Significance and special interest is also derived from the building's historic use as a dwelling with its associated enclosed garden to the side, and courtyard to the rear.

20. Village Hall dates from 1912 and its significance lies in its architecture, age, historic use and its social and functional connections within the village.
21. Whilst details of the design are not before me at this stage, the development of Hill View's side garden which is largely open and laid to grass with planting beds with a single dwelling would be likely to significantly alter its appearance. This would be a significant departure from the historic layout of the original building with the garden being undeveloped throughout the period since the earliest mapping in 1850, which is not disputed.
22. The open aspect to the side of Hill View and the visual and physical open qualities between it and Village Hall would be harmfully eroded, through the introduction of built form on the site, detrimentally altering a key aspect of the asset's setting, and, in doing so, negatively affecting the ability to appreciate its significance. The presence of a dwelling on the site would also intensify the residential use in this location, resulting in the listed building having a very small rear garden area which would be uncharacteristic for a dwelling of this size. Moreover, a new dwelling on the site would likely compete visually and physically with the primary dwelling upon it.
23. Having regard to these matters, in my judgement the proposal would detrimentally diminish important attributes which contribute to the designated heritage asset's significance and harmfully affect how the asset is experienced. In turn, this would lessen the positive contribution the appeal site makes to the setting and significance of the listed building as well as reduce the ability to appreciate that significance. The detailed matters at the technical consent stage are unlikely to adequately avoid or minimise the identified harm as this would not overcome the central objection of a new dwelling in this location.
24. I conclude therefore that the location of the appeal site which forms part of the setting of the listed building known as Hill View would not be suitable for a new dwelling because its development would not preserve the setting of the listed building, contrary to the requirements of section 66(1) of the 1990 Act. There would also be conflict with CDLP Policy EN10 which amongst other matters seeks development proposals to sustain and enhance the character, appearance and significance of designated heritage assets. Additionally, the proposal would conflict with the provisions of the Framework which seeks to conserve and enhance the historic environment.
25. Given the proposal's localised extent and having regard to paragraphs 214 and 215 of the Framework, I consider that the harm that would be caused to the significance of the designated heritage asset would be less than substantial. This harm should be weighed against the public benefits of the proposal, in accordance with Framework paragraph 215 and with Policy EN10 of the CDLP. I return to this in my balance below.

Conservation Area

26. Sapperton Conservation Area encloses the majority of built form of this small rural village. Its significance is derived from the quality of the architecture with many buildings constructed of stone under stone slate roofs, varying in size and scale, as well as layout. Dwellings set in spacious plots give the area a sense of openness and spaciousness which contributes to the area's significance. Walls, landscaping and other means of enclosure adjoining the highway are a further characteristic of the area, as is the landscape setting of the village.
27. The openness of the appeal site makes a positive contribution to the character and appearance of the area, even having regard to that it is not readily visible from the highway due to mature evergreen hedgerows. Built form upon the site would erode this and significantly alter the appearance of the site and the contribution that it makes to the conservation area as a whole.
28. I am mindful of the in-principle nature of the proposal and that there would be the opportunity to resolve detailed matters at the technical details consent stage. Even so, I am not convinced that this would adequately avoid or minimise the identified harm to the conservation area, as it would not overcome the in-principle objection to the loss of open space in the conservation area through the introduction of a new dwelling in this location.
29. I conclude that given the location of the appeal site the proposal would neither preserve or enhance the character or appearance of the Sapperton Conservation Area, in conflict with the requirements of S72 of the 1990 Act. There would also be conflict with the objectives of Policy EN10 of the CDLP as set out above, Policy EN11 which requires development to preserve and where appropriate enhance the special character and appearance of the conservation area and does not involve the loss of open spaces, including garden areas which make a valuable contribution to the character and/or appearance of the conservation area, and Policy DS3 which requires development to complement the form and character of the settlement. There would also be conflict with the conservation and enhancement of the historic environment objectives of the Framework.
30. In terms of the harm that I have identified, the localised impact would result in less than substantial harm to the significance of the designated heritage asset, which should be weighed against the public benefits of the proposal in accordance with Framework paragraph 215 and Policy EN10 of the CDLP. This is considered below.

Other Matters

31. I note the suggestion that the appeal site would benefit from permitted development rights for new buildings, however being within the curtilage of a listed building, such rights do not exist. Garden furniture and domestic paraphernalia are unlikely to have the same effect on the appeal site and its relationship to designated heritage assets as a dwelling upon the site. These matters do not give support to the proposal.
32. The proposal would suitably mitigate the recreational effects of the proposal on the Cotswolds Beechwoods SAC. However, such mitigation is a requirement of the development plan and is neutral in my assessment.

Public Benefits

33. The Council has advised that it is exploring the implications of the revised Framework and the effect the application of the standard methodology will have on its identified housing need. It has also indicated that its housing land supply figures may now be out of date. The appellant considers that the Council is unable to demonstrate a 5 year supply of housing land through the application of the standard method and as such the policies of the development plan are out of date.
34. Irrespective of whether or not the Council can demonstrate the required supply of housing land, the Framework highlights the Government's objective to significantly boost the supply of homes. Ministerial announcements have further emphasised the importance of delivering economic growth and raising living standards in the context of a housing crisis. Small sized sites such as this can make an important contribution to meeting the housing requirement of an area, and the delivery of housing in a sustainable settlement accords with the development strategy for the area. Significant weight is given the delivery of a new home in this settlement.
35. There would be economic benefits associated with the construction process including opportunities for employment. Spending by future occupiers of the new dwelling could also help to support local facilities and services including the school, pub and church and the local economy generally. However, the benefits would be likely to be very limited given the small scale of the proposals and this limits the weight that I can give to these matters.

Heritage and Planning Balance

36. Both the National Planning Policy Framework and CDLP Policy EN10 set out that great weight will be given to a designated heritage asset's conservation. Where harm to the significance of a designated heritage asset is found this should be outweighed by public benefits.
37. There is no doubt that there are benefits of the proposal associated with the delivery of housing on a small site, in a sustainable settlement. However, the harm that would result through the site's location relative to the listed building at Hill View and the Sapperton Conservation Area would bring the proposal into conflict with the development plan as a whole, as well as the 1990 Act in so far as it relates to listed buildings and conservation areas.
38. The harm to Hill View and the Sapperton Conservation Area would individually be less than substantial, but nevertheless attracts considerable importance and weight. In my judgement the cumulative public benefits noted above would not be sufficient to outweigh the identified harm to the listed building or the conservation area. Accordingly, I am not persuaded that there is a clear and convincing justification for the harm that would be caused to the significance of these designated heritage asset.
39. The proposal would therefore be contrary to CDLP Policy EN10 which requires that clear and convincing justification of public benefit to be demonstrated to outweigh harm to designated heritage assets. There would also be conflict with the aims of the Framework to conserve and enhance the historic environment.

- 40. In the overall planning balance, the benefits of the proposal whilst considerable are not sufficient to outweigh the harm I have identified and the conflict with the development plan as a whole.
- 41. Given the above, and even if I found that the Council was unable to demonstrate a 5 year supply of deliverable housing sites, paragraph 11 d) of the Framework would not be engaged because the policies in the Framework that protect designated heritage assets provide a strong reason for refusing the development proposed.

Conclusion

- 42. The location of the appeal site and its relationship to designated heritage assets means that the proposal conflicts with the development plan when it is read as a whole. The support given to the land use and the amount of development proposed and the guidance in the Framework does not indicate that a decision contrary to the development plan should be reached.
- 43. The appeal is dismissed.

RC Kirby

INSPECTOR