



Appeal Decision

Site visit made on 15 January 2025

by **C Billings BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 19th February 2025

Appeal Ref: APP/H1840/W/24/3353490

Westmancote Nurseries, Kemerton Road, Westmancote, Bredon, Worcestershire GL20 7EN

- 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 T Cooper against the decision of Wychavon District Council.
 - The application Ref is W/23/01605/FUL.
 - The development proposed is demolition of greenhouses and other buildings and structures and change of use of land for the siting of up to 25 holiday lodges and a warden's lodge.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of greenhouses and other buildings and structures and change of use of land for the siting of up to 25 holiday lodges and a warden's lodge, at Westmancote Nurseries, Kemerton Road, Westmancote, Bredon, Worcestershire GL20 7EN, in accordance with the terms of the application, Ref W/23/01605/FUL, subject to the conditions in the attached schedule.

Preliminary Matters

2. Although the description of development above differs to that on the application form, the appellant's submission sets out that the proposal is for the change of use of land for the siting of up to 25 holiday lodges and a warden's lodge. Also, while initially the proposal included a clubhouse, this was subsequently omitted from the proposal. Therefore, I have used the description of development on the Council's decision notice, as this appropriately describes the appeal proposal.
3. The main parties set out that the proposed holiday lodge development falls within the definition of caravans under the Caravan Sites and Control of Development Act 1960 (the 1960 Act) and that the lodges and other proposed works, including infrastructure associated with the proposed use of the land would be permitted development under Part 5 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), which would be controlled by conditions of the required caravan site licence, under the 1960 Act. I have determined the appeal on this basis.
4. Details have been provided in respect of the external appearance of the proposed lodges and the general layout of the development, although are for indicative purposes only. I have dealt with such plans on this basis.
5. The appellant's statement of case includes a Highway Technical Note which provides information and plans to seek to address the comments raised by the highway authority during the course of the consideration of the planning application. As this was part of the appeal submission, all parties have had

opportunity to comment on this and so would not be prejudiced by my consideration of such.

Main Issues

6. The main issues are the effect of the proposed development on:
 - the character and appearance of the surrounding area, in particular regard to the open character and rural setting of the Local Gap, GAP2;
 - the local economy, in particular regard to the loss of the existing horticultural business; and,
 - highway safety.

Reasons

Character and appearance

7. The site lies in the open countryside, where Policy SWDP 2 of the South Worcestershire Development Plan (Feb 2016) (SWDP) sets out that development will be strictly controlled and limited to certain development. This includes static and touring caravans, chalets, and camping sites, permitted subject to certain criteria in Policy SWDP 26 of the SWDP.
8. Policy NP2 of the Bredon Parish Neighbourhood Plan (Made July 2017) (BNP) defines Local Gaps in order to prevent the coalescence of settlements and to protect their character and rural setting. The policy sets out that, proposals for re-use of rural buildings, agriculture, and forestry-related development, playing fields, other open land uses and minor extensions to existing dwellings will be supported where they would preserve the separation between settlements concerned and retain their individual identities.
9. Having regard to the 1960 Act, the proposed use of the land for the siting of lodges, would be an open land use, in that no permanent buildings are proposed. In addition, the proposal would involve the demolition of a number of existing permanent buildings and structures within the appeal site which have a significant combined footprint. Also, even though the proposed lodges are not permanent buildings, the indicative layout and scale of the proposed 25 lodges and warden lodge, demonstrates that the amount of footprint and general built form within the appeal site would be less than existing buildings and structures.
10. Although the proposed lodges could be sited in different locations to that shown on the indicative site layout plan, it demonstrates that the proposed number of lodges would allow for spacing between them and that, there would be significant areas of landscape planting throughout the site. Therefore, the proposal would enhance and so, ensure the open, rural character of the appeal site is retained.
11. Despite that there would be views of the proposed development from the adjacent public footpath, subject to landscaping and appropriate lighting, overall, the proposal would enhance the visual amenity of the appeal site compared to the appearance of the existing buildings and use of the site. Therefore, the proposal would not have an urbanising effect, nor appear overly dominant within the surrounding rural landscape setting.
12. The proposed holiday lodges are not dwellings, rather they are a recognised form of development appropriate in the countryside under Policy SWDP 26 of

the SWDP. Therefore, the proposal would not be residential development which would elongate the village. Furthermore, due to the proposed low density of the lodges and that the site is fairly enclosed, with surrounding wooded areas and there is further intervening land within the Local Gap beyond the site and between the villages, the proposal would not result in the coalescence of settlements. Therefore, the proposal would ensure the identities of the nearby villages of Bredon and Lower Westmancote are retained.

13. The appeal site is not within the Cotswold National Landscape, although would be visible from it, due to its proximity. Where the appeal site is located, it is identified as within the Principal Village Farmlands Landscape Type (LT) in the County Landscape Character Assessment. The Landscape and Visual Impact Assessment (LVIA) and the Council's landscape officer concur that the proposal would conserve the qualities of the National Landscape and, subject to appropriate lighting and landscaping, the proposal would not have a significant effect on the landscape character. Based on the evidence before me, I have no reason to disagree with these findings. Therefore, the proposal would not harm the landscape character of the area.
14. In view of the above, the proposed development would not have a harmful effect on the character and appearance of the surrounding area, in particular regard to the open character and rural setting of the Local Gap, GAP2 and so, there would be no conflict with Policy NP2 of the BNP.

Local economy

15. In rural areas, Part D of Policy SWDP 12 of the SWDP permits farm diversification for employment, tourism, leisure, and recreation uses, provided certain criteria is met. Additionally, Policy NP12 of the BNP sets out that proposals that result in the loss of an existing employment or business use, will be resisted, unless it can be demonstrated that continued use of the site as a business premises is no longer financially viable. The supporting text for Policy NP12, explains the parish has relatively few employment opportunities and identifies Westmancote Nurseries (the Nursery) as one of the main sources of employment within the Parish. It also explains that this policy seeks to refine Policy SWDP 12 by supporting local economic development at existing sites.
16. The proposal is for a tourism use, although as the existing horticultural use of the site will be lost in its entirety, there would no longer be ongoing agricultural undertaking or operations from the appeal site. This would conflict with the provisions of part D i) of Policy SWDP 12 of the SWDP. However, in view of my findings on the first main issue, the proposal would be of a scale and form appropriate to the rural character of the area and the proposal would reduce the need for additional built development.
17. While the BNP identifies the Nursery as one of the main sources of employment in the Parish, from the evidence provided and my site observations, the Nursery does not currently employ a significant number of people who work at the appeal site. Also, the evidence shows that the Nursery business operation at the appeal site has been having difficulties for a number of years, and that it does not currently employ any local villagers. Therefore, even though no substantive financial information has been provided, it has been suitably

demonstrated that the horticulture business is not able to operate successfully at the site and that, the proposal would not impact on existing local village jobs.

18. Notwithstanding the above, and even though it is unknown how many jobs the proposal would likely create or whether the horticultural business has been appropriately marketed for sale or rent. The proposed development would be a business, which would generate employment associated with the management of the site and its holiday lodge operations. Therefore, the proposal would likely provide some local job opportunities and so, support local economic development at an existing site, rather than result in the total loss of any employment use at the appeal site. This would be aligned with the aims of Policy SWDP 12 of the SWDP and Policy NP12 of the BNP. Additionally, the proposed visitors to the holiday lodges would likely help support the local economy in using local services and businesses.
19. In view of the above, while the proposal would conflict with part i) D of Policy SWDP 12, on balance, and having regard to the broad aims of this policy and Policy NP12 of the BNP, the proposed development would not have a harmful effect on the local economy, despite the loss of the existing horticultural business. Therefore, overall, I find no conflict with Policy SWDP 12 of the SWDP and Policy NP12 of the BNP.

Highway Safety

20. The proposed development would utilise the existing vehicular access from Kemerton Road, which serves the existing horticultural business within the appeal site. The evidence provided demonstrates that the level of traffic movement associated with the existing business compared to that of the proposed development would be similar. Also, following the delivery of the holiday lodges, the level of HGV movement associated with the proposed development would be less than that of the existing business. Additionally, accident data provided shows there have been no significant accidents recorded within the stretch of roadway near to the site over the last few years.
21. While currently the existing access onto Kemerton Road does not meet the required visibility splay requirements in one direction, it is proposed to move the location of the speed limit terminal from 40mph to 30mph further along the road via a Road Traffic Order. Road Safety Audits undertaken demonstrate that, subject to design details, there would be no major impediments to the relocation of the 30/40mph speed limit terminal location. Also, subject to these off-site highway works, it has been demonstrated that the required visibility splay for the 30 mph speed limit, once altered, would be deliverable within highway land. This would result in a betterment compared to the existing access arrangement.
22. The access driveway leading into the main part of the site is of limited width and would not allow the passing of vehicles along much of its length. It is also shared with a public right of way. Notwithstanding that no passing bays are proposed, from the evidence provided and my site observations, the access driveway serving the existing business premises already operates with such limited width, similar levels of vehicular movement and scenario of potential conflict between vehicles and pedestrians. Although, while the access driveway is relatively long, it is fairly straight with reasonable visibility along its length.

This would allow on-coming vehicles and pedestrians time to stop and give way, without causing undue harm to driver and pedestrian safety.

23. While concerns have been raised by interested parties about the use of the access by large emergency vehicles due to the width of the driveway. The access is already used by HGVs in association with the existing business operations and no concerns have been raised by the Council's highway specialists in such regard. Furthermore, the swept path analysis drawings demonstrate that articulated vehicles can appropriately use the existing access.
24. In view of the above, subject to off-site highway works being secured by condition, the proposed development would not have an unacceptable effect on highway safety. Therefore, the proposal would not conflict with Policies SWDP 4 and SWDP 21 of the SWDP which require, amongst other matters, that development has satisfactory access in accordance with recognised standards.

Other Matters

25. The Parish Council refer to appeal decisions¹ whereby the Inspectors found harm in regard to character and appearance for the respective caravan and holiday lodge developments. While I do not have full details of these case examples, they are in different parts of the Country, in different Council areas with different applicable development plan policies. Therefore, they are not directly comparable to the appeal proposal.
26. The site is within Flood Zone 1 and so is in an area at low risk of surface water flooding. The flood risk and sustainable drainage assessment demonstrates that the site is outside the 1 in 100 year plus 40% event surface water flood extent. Therefore, subject to surface water attenuation, in the form of a proposed on-site attenuation pond, it is demonstrated that the development would not increase flood risk elsewhere and have a positive reduction in flood risk.
27. Matters related to land ownership and easements in respect of right of way over the access driveway are private legal matters between the relevant parties. Therefore, such matters fall outside the planning process and could not justify refusal of the proposed development.
28. The submitted Preliminary Ecological Appraisal (PEA) and Extended Protected Species Survey Report for Bats have not found there would be any undue harm caused to habitats and protected species, subject to the mitigation measures set out therein. Additionally, in view of the findings of the PEA, size of the site, and the proposed removal of hardstanding and buildings, additional planting and other biodiversity enhancement measures, the proposed development could achieve appropriate biodiversity net gain. The mitigation and enhancement measures, including appropriate external lighting, could be suitably controlled by conditions.
29. Concerns have been raised in regard to the impact on the living conditions of nearby residents by reason of overlooking, loss of outlook and overshadowing, noise and disturbance and light pollution and, that the proposal may lead to an increase in crime and wildfires. However, the indicative plans show that the proposed lodges would be single storey set away from any nearby dwelling.

¹ Appeal refs APP/A3010/W/24/3339216; APP/B9506/W/22/3312865; and APP/D0121/W/18/3216683

The potential noise and disturbance from the holiday lodges would likely be much less than the existing horticultural business. Furthermore, subject to conditions in relation to landscaping and lighting, this would ensure no harmful impact on the living conditions of the occupiers of nearby properties in respect of light pollution and general disturbance. Also, I have no substantive evidence to justify that the proposal would lead to increased crime or threat of wildfires comparable to the existing use of the site.

30. Even though there may be other caravan parks nearby, no substantive evidence has been provided to suggest that individually or in combination with other holiday parks the proposal would cause undue harm.

Conditions

31. Having regard to the advice contained within the Planning Practice Guidance and the National Planning Policy Framework, I have considered the conditions suggested by the Council and subsequent appellants' comments on such. I have also considered the need for other conditions having regard to the representations made.
32. In addition to the standard implementation condition and necessary conditions referred to above, in relation to off-site highway works, landscaping, ecology and lighting, it would be necessary for the avoidance of doubt and in the interests of certainty to define the plans with which the scheme should accord. However, this does not include plans which have been shown for indicative purposes only.
33. To ensure the lodges are occupied as holiday accommodation only, as applied for, it would be appropriate and necessary to include a condition to restrict their use, which is appropriate in this countryside location.
34. A condition is needed to ensure the retention and protection of the existing trees surrounding the appeal site during site clearance and demolition works and the construction of the development, to preserve and maintain the important landscape character of the area. It would also be reasonable to include a condition for cycle parking provision within the site, so the development promotes sustainable means of travel.
35. In view of the concrete removal and excavation works to be undertaken to create the attenuation pond and, that there is potential for archaeological remains on part of the site, it would be reasonable to require an archaeological watching brief for the development. As per the findings of the desk top assessment and Council's regulatory advisor comments, there is some risk of land contamination issues within the appeal site. Therefore, a contaminated land condition is necessary to manage such and ensure no harm is caused to human health.
36. In regard to Policy SWDP27 of the SWDP, the proposed development would not create new floor space, nor is for new dwellings and the external appearance of the lodges could change. Therefore, it would not be reasonable to require the development to incorporate renewable or low carbon energy-generating facilities. Also, as noted in the main issues, subject to appropriate landscaping and that the lodges are not permanent buildings, the proposed development would not harm the character and appearance of the surrounding area. Therefore, having regard to such and that certain matters would be controlled by

other means in respect of the 1960 Act, details of the external appearance and finish of the lodges and layout of the development is not necessary.

37. Based on the evidence before me, including that the site access is existing with shared use of a public right of way, the requirements for off-site footway and lighting improvements and surface water drainage would not be reasonable, nor necessary to make the proposed development acceptable in regard to highway safety or other harms. As demonstrated, the works associated with the Traffic Regulation Order is deliverable on highway land, therefore, this can be appropriately controlled by condition without the need for a Section 106 agreement. Also, as there are no buildings to be demolished close to the road, a demolition method statement would not be necessary in order to protect highway safety. Although, in the interests of highway safety and to protect the living conditions of nearby occupiers from undue noise and disturbance, a construction traffic management plan condition would be appropriate and necessary.

Conclusion

38. For the reasons given above, the appeal would accord with the development plan read as a whole and there are no material considerations that indicate otherwise.
39. Accordingly, the appeal is allowed.

C Billings

INSPECTOR

See overleaf for Schedule of Conditions

Schedule of Conditions

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following plans: Site Location Plan Dwg No 12276-0001-01; Demolition Plan Dwg No 12276-0003-01; and, Attenuation Pond Sections Dwg No 794-PLN-NPI-NP12276-0002-01.
3. No site clearance, preparatory work or development hereby permitted, including any associated demolition works shall take place, until a scheme for the protection of the retained trees, to include the erection of temporary fencing around all retained trees on or outside the site, which overhang it, where their root protection areas falls within the site have been erected, in accordance with the British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard, if replaced) has been erected. The protective fencing shall remain in place until all the development and works are complete, or unless otherwise agreed in writing by the local planning authority. Nothing shall be stored or placed (including soil), or ground levels altered within the fenced areas, unless otherwise agreed in writing by the local planning authority. There shall be no burning of any material within 10 metres of the extent of the canopy of any retained tree or hedge.
4. No development, including any demolition works hereby approved shall take place until a Construction Traffic Management Plan (CTMP) has been submitted to and approved in writing by the local planning authority. The CTMP shall include:
 - i) measures to ensure that vehicles leaving the site do not deposit mud or other detritus on the public highway, including wheel washing facilities;
 - ii) details of site operative parking areas, material storage areas and the location of site operatives' facilities (offices, toilets etc);
 - iii) the hours that delivery vehicles will be permitted to arrive and depart, and arrangements for unloading and manoeuvring;
 - iv) vehicle routing;
 - v) measures to ensure Public Rights of Way remain unobstructed;
 - vi) temporary traffic management arrangements;
 - vii) mitigation measures for any impacts on residents, businesses, and public transport services;
 - viii) detailed tracking assessments for all vehicle types requiring access to the site, performing all entry and exit manoeuvres at the access and nearby highway junctions;
 - ix) key contact details, including an emergency telephone number.

The measures set out in the approved CTMP shall be carried out and complied with throughout the demolition and construction of the development hereby approved. Site operatives' parking, material storage and the positioning of operatives' facilities shall only take place on the site in locations approved in writing by the local planning authority.

5. No development hereby permitted shall commence until a Biodiversity Net Gain assessment and metric calculations of baseline and post-development habitats has been submitted to and approved in writing by the local planning authority. The assessment and calculations shall demonstrate how an uplift in biodiversity is achieved by the development and the relevant measures shall be incorporated into the landscape scheme and Landscape and Ecological Management Plan (LEMP) and shall thereafter be implemented in accordance with the approved details.
6. No development hereby permitted shall take place until a detailed assessment of the risks posed by any contamination, in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency, Land Contamination Risk Management (LCRM) (or equivalent British Standard and Model Procedures if replaced), has been carried out and submitted to and approved in writing by the local planning authority. If any contamination is found, no development shall take place until:
 - (i) a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the development hereby permitted has been submitted to and approved in writing by the local planning authority;
 - (ii) the site has been remediated in accordance with the approved measures and timescale; and,
 - (iii) a verification report has been submitted to and approved in writing by the local planning authority.If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended until:
 - iv) additional measures for the remediation of the site have been carried out in accordance with details that shall first have been submitted to and approved in writing by the local planning authority; and,
 - v) a verification report for all the remediation works has been submitted to and approved in writing by the local planning authority.
7. No development hereby permitted, including any demolition works shall take place until:
 - (i) A programme of archaeological work, including an archaeological Written Scheme of Investigation (WSI) has been submitted to and approved in writing by the local planning authority; and,
 - (ii) Any necessary safeguarding measures to ensure the preservation in situ of important archaeological remains and/or further archaeological investigation and recording identified in the WSI have been undertaken in accordance with a specification and timetable that shall first have been submitted to and approved in writing by the local planning authority.

The development shall be carried out in full accordance with the approved details within the WSI.

8. The development hereby permitted shall not be brought into use until the off-site highway works to re-locate the 40mph to 30 mph speed limit along Kemerton Road, in accordance with details shown on drawing no. JNY11383-RPS-0100-006 have been completed.

9. The development hereby permitted shall not be brought into use until the visibility splays as shown on drawing no. JNY11383-02b have been provided, free of any obstruction exceeding 0.6 metres in height from the ground level of adjoining carriage and shall be retained as such thereafter.
10. Prior to the first use of the development hereby permitted a landscaping scheme shall be submitted to and approved in writing by the local planning authority. The submitted landscape scheme shall be based on the Preliminary Ecological Appraisal ref ECO02409 Final, dated September 2022 and the Landscape and Visual Impact Assessment ref JSL4367 2.0, dated October 2022 and include the following:
- (i) a plan(s) showing details of all existing trees and hedges on the application site. The plan should include, for each tree/hedge, the accurate position, canopy spread and species, together with an indication of any proposals for felling/pruning and any proposed changes in ground level, or other works to be carried out, within the canopy spread.
 - (ii) a plan(s) showing the layout of proposed tree, hedge and shrub planting and grass areas.
 - (iii) a schedule of proposed planting, indicating species, sizes at time of planting and numbers/densities of plants.
 - (iv) a written specification outlining cultivation and other operations associated with plant and grass establishment.
 - (v) a schedule of maintenance, including watering and the control of competitive weed growth, for a minimum period of five years from first planting.

All planting and seeding/turfing shall be carried out in accordance with the approved landscaping scheme in the first planting and seeding/turfing seasons following the first use of the development, whichever is the sooner. The planting shall be maintained in accordance with the approved schedule of maintenance. Any trees or plants which, within a period of five years from the completion of the planting, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

11. Prior to the first use of the development hereby permitted and installation of any lighting within the site, a detailed lighting scheme shall be submitted to and approved in writing by local planning authority. The submitted lighting scheme shall have regard to the measures set out in the Preliminary Ecological Appraisal ref ECO02409 Final, dated September 2022 and the Extended Protected Species Survey Report for Bats dated November 2023. The approved lighting scheme shall thereafter be implemented prior to the first use of the development and thereafter be retained as such for the lifetime of the development. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), there shall be no other lighting provided on the site, other than that expressly authorised by this condition.
12. Prior to the first use of the development hereby permitted, the surface water drainage strategy, as set out in the Flood Risk and Sustainable Drainage Assessment Ref HLEF83236 V-02, dated July 2023, including the provision of an on-site attenuation pond, shall be implemented in full and thereafter maintained as such for the lifetime of the development.

13. Prior to the first use of the development hereby permitted, secure, covered cycle storage facilities shall be provided within the site, in accordance with details to be first submitted to and approved in writing by the local planning authority.
14. Within one month of the development hereby approved commencing, a landscape and ecological management plan (LEMP) shall be first submitted to and agreed in writing by the local planning authority. The LEMP shall be based on the approved landscaping scheme pursuant to condition 10 and shall be guided by the Biodiversity Net Gain assessment approved pursuant to condition 5 and shall thereafter be implemented and maintained in accordance with the approved details. The LEMP shall include:
- a. description and evaluation of the features to be managed;
 - b. ecological trends and constraints on site that might influence management;
 - c. aims and objectives of management;
 - d. appropriate management options for achieving aims and objectives;
 - e. prescriptions for management actions;
 - f. preparation of a work schedule, including an annual work plan capable of being rolled forward over a five-year period and for a minimum of 30 years thereafter;
 - g. details of the body or organisation responsible for implementation of the plan;
 - h. on-going monitoring and remedial measures.

The plan shall also set out where the results of the monitoring show that conservation aims and objectives of the LEMP are not being met, how contingencies and/or remedial action identified, agreed, and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.

15. The holiday lodges hereby approved shall be occupied as holiday accommodation only and shall not be occupied as a person or person's sole or main place of residence. An up to date register shall be kept at the holiday accommodation hereby permitted and be made available for inspection by the local planning authority upon request. The register shall contain details of the names of all of the occupiers of the accommodation, their main home addresses and their date of arrival and departure from the accommodation.

End of Schedule