
Appeal Decision

Site visit made on 14 January 2025

by **G Sibley MPLAN MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 20th March 2025

Appeal Ref: APP/J3720/W/24/3349840

Land off Cottage Lane, Shottery CV37 9HL

- 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 Messrs Andrew Lord & David Sidwell against the decision of Stratford-on-Avon District Council.
 - The application Ref is 24/00649/OUT.
 - The development proposed is outline planning application seeking planning permission for two self-build/custom build dwellings.
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Decision

1. The appeal is dismissed.

Preliminary and Procedural Matters

2. The site is located within the setting of a Grade II listed building known as Burman's Farmhouse (the Farmhouse) and its curtilage listed buildings. As a result, I have had regard to my duty under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) which requires me 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.
3. The evidence before me does not lead me to dispute that the identified curtilage listed buildings are curtilage listed and thus I have considered them as such within this decision.
4. Part of the site is also located within the Shottery Conservation Area (CA) and as such I have had regard to my duty under Section 72(1) of the Act which requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.
5. A planning obligation by way of a Deed of Agreement under section 106 of the Town and Country Planning Act 1990 (as amended) (the 1990 Act) was submitted during the consideration of this appeal, and I consider this matter in detail later in this decision.
6. The appeal is made in outline with all matters reserved except for access. Illustrative plans have been submitted and I have had regard to these although I acknowledge that the scheme could change at the reserved matters stage. The plans related to access would form the basis of any planning permission and have thus been considered as such.
7. The National Planning Policy Framework (the Framework) was updated in December 2024, during the consideration of this appeal. The main parties were

given the opportunity to comment on the updates to the Framework and where they have been received these comments have been taken into consideration.

Main Issues

8. The main issues relevant to this appeal are:

- whether the proposal would provide a suitable site for development, having regard to its location in conjunction with the housing strategy of the area
- the effect of the proposal upon the character and appearance of the area with particular regard to the 'Area of Restraint'
- whether the proposal would preserve the setting of the Grade II listed building known as 'Burman's Farmhouse' and its associated curtilage listed buildings and linked to this the effect of the proposal upon the significance of the Shotton Conservation Area, including its setting; and
- whether the proposed development would provide suitable arrangements for refuse and recycling collection.

Reasons

Housing Strategy

9. The appeal site forms a mostly rectangular parcel of land other than the land required for the driveway. The site is located next to a small group of buildings that are centred around the Farmhouse. These buildings, as well as the appeal site, are accessed via a driveway connected to Public Right of Way (PRoW) SB45 which itself connects to Cottage Lane. Along Cottage Lane there is scattered linear development, and these buildings include the Grade I listed building known as Anne Hathaway's Cottage and the associated Grade II Registered Park and Garden.
10. Policy CS.15 of the Stratford-upon-Avon Core Strategy (CS) sets out the housing strategy for the area and it seeks to ensure that all development should support a pattern of balanced dispersal in accordance with the distinctive character and function of sustainable locations across the district. The policy seeks for development to be focussed towards the main town of Stratford-upon-Avon, Main Rural Centres, new settlements, local service villages, large brownfield sites, all other settlements and local needs schemes within or adjacent to settlements. The site is also located within the neighbourhood plan area for the Stratford-upon-Avon Neighbourhood Plan (NP).
11. Outside of these areas, development needs to comply with several criteria set out in CS Policy CS.10 as well as NP Policy H1 where new residential development may be appropriate within the open countryside. This includes small scale schemes for housing, employment or community facilities to meet a need identified by a local community in a Parish Plan, Neighbourhood Plan or other form of local evidence, on land within or adjacent to a village.
12. To the north of the site is Stratford-upon-Avon, which is the main town, however the appeal site is separated from it by a large open field and is thus not adjacent to its Built-up Area Boundary (BuAB) as demarcated in the NP. The site is located partly within but mostly outside of the conservation area boundary for Shotton,

and as set out in the Shottery Conservation Area Review (The Review), this includes large areas of open space. Furthermore Shottery is not identified as a village within the CS and does not have a BuAB identified within the NP.

13. It is proposed that the two dwellings would be self-build properties. A signed Deed of Agreement under section 106 of the 1990 Act (S106) was submitted with this appeal. The Council does not dispute that the S106 agreement would secure the proposed development as self and custom build housing. The S106 would ensure that the dwellings would be occupied by the persons who built them and thus the dwellings would be self-build and custom housing as set out in section 1 of the Self-Build and Custom Housebuilding Act 2015 (as amended).
14. While there is evidence of a need for self-build and custom housing in the Council's Self-Build and Custom Housebuilding Position Statement (July 2024) this does not show that the scheme was identified or supported by the community for the development to be located on this site. Furthermore, the site is not located within or adjacent to a village and thus conflicts with this element of the policy as well.
15. This also leads to a discord with Part S of the Development Requirements Supplementary Planning Document (SPD) which states that a key component of Housing Needs Schemes is that they have the support of the local community (i.e. Town or Parish Council). Given the objections from the Town Council and local Councillor, amongst other objectors, it is evident that this scheme does not have such support.
16. Furthermore, the submitted S106 includes a provision that the first 12 weeks of marketing would be solely to those with a 'District Connection'. However, it is not evident that there is a demand for 2 self-build properties in this particular location and in light of the limited period of marketing, there is a significant likelihood that the plots would, after a short period of time, be available to the wider market. The lack of robust justification for the two self-build dwellings in this location casts significant doubt over whether the proposal would meet the local need to justify a Housing Needs Scheme. Whilst not an adopted policy the SPD provides guidance for development and thus is relevant to this scheme.
17. While there are no policies specifically referring to the provision of self-build and custom housing in the development plan, this does not necessarily make the housing strategy policies out of date. CS Policies CS1 and CS15 distribute housing to a range of settlements and sustainable locations, and this covers all types of housing. This is consistent with the Framework which seeks to ensure significant development should be located in areas which are or can be made sustainable.
18. CS Policy AS.10 and NP Policy H1 are relevant to the appeal site and while they do not make provision for self-build and custom housing, there is a strategic approach for the distribution of housing that also seeks to encourage development that is identified and supported by the local community. This is consistent with the Framework which supports small sites to come forward for community-led development for housing and self-build and custom-build housing. Consequently, I conclude that there are relevant development plan policies and the provisions of paragraph 11d) of the Framework are not engaged in this instance.

19. With regard to the permission granted by the Council for 16 self-build/custom housebuilding plots at Salford Priors¹, that scheme was adjacent to the BuAB for Salford Priors unlike the scheme before me. The Council's conclusions with regard to Policies CS.15 and AS.10 were also consistent with those given for this scheme and the approach taken in this decision.
20. In terms of the appeal at The Exchange, Mill Lane² the Inspector in that case determined that the development would be outside of the BuAB and would conflict with the development plan for similar reasons to that given above. Consequently, those decisions insofar as they are relevant to this matter are consistent with the approach taken in this decision, as well as the case put forward by the Council. Furthermore, each case must be determined on its own merits and the material considerations, which were determinative in the case at Mill Lane, and are considered in detail later in this decision.
21. I have been directed to Policies SAP.6 and SAP.7 of the emerging Revised Preferred Options Site Allocations Plan (SAP). Policy SAP.6 states that the provision of self-build and custom housing will be facilitated in a number of ways. Policy SAP.7 requires proposals to satisfy relevant policies in the CS and the Framework that are applicable to the site.
22. Based on the evidence before me the SAP is at the preferred options stage and has not reached the point of being examined by an Inspector. This examination and further consultations could result in changes, deletions and additions to emerging policies. Even if the proposed scheme was determined to accord with these emerging policies, based upon the stage of preparation the SAP is at and taking into consideration paragraph 49 of the Framework, the emerging SAP is of limited weight in favour of the appeal.
23. Therefore, the proposal would not provide a suitable site for development, having regard to its location in conjunction with the housing strategy of the area. Consequently, for the reasons given above it would conflict with CS Policies CS.15 and AS.10 and NP Policy H1.

Character and Appearance

24. The appeal site is located to the north west of Shottery and to the north of it is Stratford-upon-Avon and between the appeal site and the town is an open field. The appeal site, as well as most of the undeveloped land between Shottery and Stratford-upon-Avon is allocated as an Area of Restraint by CS Policy CS.13. The policy states that this land is designated as it makes an important contribution to the character of the settlement. Development must not harm or threaten the open nature of such areas, taking into account any possible cumulative effects.
25. The CA is split into four sub-areas and the appeal site is located within and next to sub-area A. The Review states that Cottage Lane, within sub-area A, is characterised by scattered linear development either side of the road with large tracts of open spaces between groups of buildings. This development, is of all the areas within Shottery, the most 'rural' in character.
26. The proposed development would reuse the existing shared driveway used by the Farmhouse's curtilage dwellings. Most houses in sub-area A are generally located

¹ Application Reference: 22/02022/OUT

² Appeal Reference: APP/J3720/W/23/3328604

close to Cottage Lane, but these dwellings are set back from it and there are limited views of them from it. However, PRoW SB45 passes along the field to the north of the appeal site, and this connects to PRoW SD16B which wraps around a larger field to the west and heads towards the south to connect to PRoW SB42. Given the trees and hedges between the appeal site and the PRoWs there are limited views of it and from further afield these views are very limited.

27. A new link road has been built a modest distance from the appeal site. This link road has a footpath, and this provides a pedestrian route relatively close to the appeal site. The site is bound by trees and hedges, and these provide screening of the site but given the slight incline in the lay of the land towards the link road, from this new route there are glimpsed views of the appeal site and the group of houses around the Farmhouse.
28. The Council has identified that the land between the link road and the appeal site would be used as part of a community park and once the community park has been opened there would be public access to land very close to the appeal site. Given the close siting of this park to the appeal site, the proposed houses would likely be visible from it, despite the boundary trees and hedges. Whilst a condition could be used to secure boundary treatment, I am not satisfied that this could suitably screen the development, given the change in the lay of the land.
29. With the construction of the link road, as well as residential development around Stratford-upon-Avon to the north west of Shottery, the Area of Restraint and particularly the parts of it to the west now take on greater importance maintaining the character of Shottery as a separate settlement to Stratford-upon-Avon and vice versa.
30. The proposed community park would be retained as open space between Shottery and the link road, including development to the north. The appeal site forms part of the open space between the link road to the west and Shottery and alongside the proposed community park, the open undeveloped appearance of it makes a positive contribution towards the character of Shottery as well as Stratford-upon-Avon as distinct settlements. While the appeal site is not accessible to the public the undeveloped appearance of the site forms part of the large tracts of open spaces between groups of buildings that positively contributes towards the rural character of Shottery and particularly sub-area A.
31. The appeal site, alongside other land nearby around Shottery is identified as St23 within the Stratford-on-Avon Landscape Sensitivity Assessment (Assessment) as a zone with a rolling lowland focussed on the valley of the Shottery Brook with its winding course forming part of a green corridor that runs into the settlement from the west. The areas function as a green corridor linking into the settlement and St22 is identified as being important and should be protected.
32. The brook is located a considerable distance to the east of the appeal site. However, the Assessment considered a wider area than just the land around the brook and noted that the brook formed part of a green corridor that runs into the settlement. The brook flows from north to south whilst St22 is located to the east of St23 and thus it is evident that the green corridor that runs into the settlement from the west does not strictly follow the brook.
33. Given that both St23 and St22 form an area that is mostly devoid of development between Stratford-upon-Avon and the countryside, it follows that they both form

part of the green corridor. Indeed, the Areas of Restraint Assessment identified the green corridor to the west around Shottery as an area that has vulnerability and potential development pressure. It is evident that the whole of St23 contributes towards maintaining the area's function as a green corridor linking into the settlement and joining onto St22.

34. A character feature of St23 was the permanent pasture and the site makes a positive contribution towards this given its undeveloped appearance as well as its historic Tudor era piecemeal enclosure likely related to the Farmhouse.
35. The scheme proposes two dwellings set within spacious grounds that would have relatively low ridge heights to limit the visibility of the scheme. However, once the new community park is open people would be able to see the site from much closer than they currently can and even from the link road as well as the PRowS there would be limited views of the dwellings. The development when seen alongside the link road and other development being built nearby around Stratford-upon-Avon would erode the open nature of the Area of Restraint and the positive contribution this makes towards maintaining the character of Stratford-upon-Avon. This would lead to a conflict with the purposes of the Area of Restraint set out in Policy CS.13.
36. This urbanisation of the site would detract from the rural character of this part of Shottery and would no longer form a permanent pasture and whilst limited in scale it would erode the area's function as a green corridor linking into Stratford-upon-Avon. Furthermore, the proposed dwellings located away from Cottage Lane and those around the Farmhouse would emphasise the discordant siting of the development contrary to the traditional settlement form of Shottery.
37. Therefore, the proposed development would significantly harm the character and appearance of the area and conflict with the purposes of the Area of Restraint. Consequently, the development would conflict with Policies CS.5, CS.9 and CS.13 of the CS and Policies BE1, BE2 and BE6 of the NP. These seek, amongst other matters, to ensure proposals, including layout and orientation, will be sensitive to the setting, existing built form, neighbouring uses, landscape character and topography of the site and locality. The Framework seeks to ensure decisions should contribute and enhance the natural and local environment by recognising the intrinsic beauty of the countryside and for the reasons given above, the proposal would fail to do this.

Heritage Assets

Burman's Farmhouse

Significance

38. Burman's Farmhouse is a Grade II listed building and around this are a group of curtilage listed buildings that have been converted into dwellings. These are known as, The Tryst House, The Pool House, The Coach House and The Old Barn.
39. The Farmhouse has an historic connection to the area as the Burman family are said to have a connection to Anne Hathaway's family. Based on the information before me the building was in agricultural use and the surrounding buildings follow a traditional farmstead layout and are agricultural in character. Whilst those

buildings have been converted to residential dwellings, they have generally retained this agricultural character. The detailed architectural design of the listed building and the curtilage listed buildings contributes towards the significance of the buildings. The curtilage listed buildings are generally smaller and thus subservient in scale and appearance, using similar materials, and thus the Farmhouse retains its prominence within the nearby area.

40. Given the buildings historic agricultural use, the setting of this building surrounded by open fields that were likely previously in agricultural use make a positive contribution to the historic and functional setting of the building. The shape of the appeal site and its close connection to the Farmhouse is identified by the parties to form a Tudor-era piecemeal enclosure typical of the 15th or 16th centuries.
41. Between the appeal site and the listed building are the curtilage listed buildings and these partly screen the appeal site from the listed building. However, there are glimpsed views of these buildings, including the Farmhouse above the boundary wall for the land associated with the curtilage listed Coach House which bounds part of the appeal site. From the nearby PRoW as well as the link road the first floor of the Farmhouse and some of the curtilage listed buildings can be seen, and this highlights the importance of the Farmhouse in the immediate area and particularly with regard to its historic connection with this and the surrounding fields as part of its historic agricultural use.
42. Whilst not currently in agricultural use, the appeal site is open grassland bound by trees and hedges which is typical for agricultural land. As such, the appearance of the site and its location close to the Farmhouse, positively relates to the historic use of the listed building within this setting. Furthermore, the sporadic development separated by fields near to the group of buildings around the Farmhouse also positively contributes towards the rural character of the wider area and thus the setting of these buildings.
43. For the reasons given above, the appeal site makes a positive contribution towards the setting of the listed building and the associated curtilage listed buildings which contributes towards the significance of these buildings.

The effect of the proposal upon the heritage assets

44. From the evidence before me the appeal site is said to have been used as an orchard in association with the Farmhouse, although that use has ceased and the land is, at the moment, open grassland.
45. The appeal proposal would involve the construction of two dwellings, albeit they are proposed to be 1.5 storeys tall to limit the height of them, although scale is a reserved matter. This would ensure that the Farmhouse remains the prominent building in the immediate area in terms of scale.
46. When looking out over the site from the Farmhouse, most views of the dwellings would be screened by the surrounding curtilage listed buildings and intervening trees and hedges but given the scale and siting of the Farmhouse, there would be views of the houses from the first floor of it. The siting of two houses within this field would urbanise the appearance of it which would lose its open and agricultural appearance.

47. Whilst the surrounding buildings are now in residential use, those buildings have generally retained their agricultural character as well as the farmstead layout around the Farmhouse which makes a positive contribution towards the setting of the identified buildings. The two proposed houses would fail to replicate the farmstead layout, being sited away from this group of buildings and harm the complementary relationship between the Farmhouse and the development around it.
48. Given the scale and siting of the proposal it would not affect 'key views' 9 to 11 identified within the Heritage Impact Assessment but for the reasons given above, the scheme would be visible from other views nearby which would harm the setting of the buildings. Furthermore, those key views are only from a small area by the PRow on the opposite side of the listed buildings to the appeal site and thus only relate to a limited area of the buildings' setting.
49. While matters such as appearance, layout and scale are reserved, the construction of two dwellings on this site would harm the setting that makes a positive contribution towards the significance of the heritage asset and its curtilage listed buildings.

Shottery Conservation Area

Significance

50. Most of the appeal site is located next to but outside of the CA but part of the driveway is within it. Whilst most of the site is located outside of the CA, the Framework requires an assessment of a proposals effect upon the significance of a heritage asset and the significance derives not only from its physical presence but also from its setting. Cottage Lane retains its rural quality since it remains exposed to open land. Between the Farmhouse and Anne Hathaway's Cottage, the lane is characterised by open tracts of land either side with some recent development, though not extensive enough to be obtrusive.
51. The development within the CA is mostly residential in use with little direct relationship to the areas agricultural past, however the area has largely retained its rural setting, and it is this which defines its character.
52. The existing driveway is paved but is not a metalled road like Cottage Lane. The winding nature of the driveway and the landscaping around it makes a positive contribution towards the rural character of the area. The farmstead layout and agricultural character of the buildings around the Farmhouse that take access from this driveway also make a positive contribution towards this rural character and thus the significance of the CA as a whole.
53. Most of the appeal site is located outside of the CA but given that it is an open and undeveloped parcel of land it makes a positive contribution towards the large tracts of open spaces between groups of buildings. This consequently makes a positive contribution towards the rural character of the setting of this part of the CA and thus the significance of the CA as a whole.

The effect of the proposal upon the heritage asset

54. The works to the existing driveway including the proposed bin collection area would be very limited and given that this would be located next to a driveway for a

group of dwellings, the works to the driveway would preserve the contribution it currently makes towards the character and appearance of the CA.

55. The CA includes the Farmhouse, and the curtilage listed buildings as well as the shared driveway which the appeal site would be accessed from. As a result, the proposed dwellings would be visible from the CA and the development would, for the reasons given earlier in this decision, result in the urbanisation of the character and appearance of this site. Given that the large tracts of open spaces between groups of buildings, like the appeal site, make a positive contribution towards the significance of the CA, the loss of this open space would harm a feature that makes a positive contribution towards the setting of the CA as a whole. As a result, the development would harm a feature that positively contributes towards the heritage asset's significance.

Heritage Balance

56. Paragraph 212 of the Framework advises that, when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation. Paragraph 213 goes on to say that any harm to, or loss of, the significance of a designated heritage asset from development should require clear and convincing justification.
57. In this case, the harm would be less than substantial but nevertheless of considerable importance and weight. In these circumstances, paragraph 215 of the Framework advises that this harm should be weighed against the public benefits of the proposal.
58. The proposal would create two new dwellings, and this would result in both short term and long term economic benefits. Additionally, the occupiers would contribute towards the local community, albeit in a modest manner and this would be a social benefit of the scheme. The proposal would also secure two self-build dwellings and these would contribute towards meeting the Councils currently unmet need for such properties.
59. While landscaping is a reserved matter the proposal would also provide ecological benefits to the area through additional landscaping around the site as well as through the use of sustainable construction methods. The scheme also seeks to secure a 10% biodiversity net gain.
60. Whilst the Council can demonstrate a 5-year housing land supply, there is a shortfall in the Council's requirement to provide plots for self-build and custom housing. The scale of the development is limited, however in light of this shortfall, I attribute moderate weight to the public benefits of the scheme.
61. Taking into consideration the great weight that should be given to the heritage assets conservation, the public benefits do not outweigh the less than substantial harm that would be caused to the significance of the heritage assets. As such, clear and convincing justification for this harm has not been identified.
62. As a result, this is a negative conclusion of the heritage balance in paragraph 215 of the Framework and is a material consideration. Therefore, for the reasons given above, the proposal would not preserve the setting of the Farmhouse, and its curtilage listed buildings, nor would it preserve the setting of the CA, although the development within it would preserve the character and appearance of the CA.

Consequently, it would conflict with CS Policy CS.8 and NP Policy BE8. These seek, amongst other matters, to ensure that priority is given to protecting and enhancing designated heritage assets such as listed buildings and conservation areas.

Refuse and Recycling Collection

63. Part P of the SPD recommends a maximum carry distance of 30 metres(m) for householders to walk to their collection point and for refuse workers to only carry the bins 15m from the public highway. In terms of the distance for refuse workers the Council states that if collection points are not within these guidelines that collections would not be undertaken.
64. The proposed bin collection point would be around 20m from the public highway and thus collection would not be undertaken. If the bin collection point were moved to be 15m from the public highway, via the Council's suggested condition, then this would mean the refuse collection point would be around 190m from the houses. This would be significantly further than the recommended distance for householders to walk to their collection points set out in the SPD.
65. The existing paved driveway is relatively flat and the proposed driveway connecting to this is proposed to be similar which would not necessarily hinder the smooth passage of the bins along the driveway. However, given the distances involved and if the bins were full this would be a considerable distance for people to drag bins and carry recycling to the collection point. This could be a significant hindrance for occupiers of the dwellings, especially in inclement weather conditions.
66. The distance the occupiers would be required to drag the bins and carry recycling would be impractical for many people and thus unsatisfactory arrangements would be made for the collection of refuse and recycling from the proposed dwellings, particularly for older or less physically able occupiers.
67. While the occupiers may hire cleaners or gardeners who could take the bins and recycling out for them, such a service would not be secured by this proposal. The occupiers of the neighbouring dwellings, as well as other properties in rural areas, likely have to drag their bins and carry recycling a considerable distance, but I am unaware of the planning history and the material circumstances that led to those properties being granted permission.
68. Therefore, for the reasons given above, the significant drag distances proposed would not provide suitable arrangements for refuse and recycling collection. Consequently, the proposal would conflict with CS Policy CS.9 which states, amongst other matters, that proposals will ensure a good standard of space and amenity for occupiers.

Other Matters

69. To the south-east of the site, there is the Grade I listed Anne Hathaway's Cottage. Its garden is also a Grade II Registered Park and Garden. Mindful of the statutory duty set out in Section 66(1) of the Act, I have had regard to the desirability of preserving the setting of the listed building. I have also had regard to the setting of the park and garden. The significance of the listed building comes from its architectural interest as well as the historic significance of the individuals who lived

there. The setting of this building also incorporates the park and garden. The significance of the park and garden also relates to the historic ownership of the land and its connection to the listed building, as well as the associated gardens and pleasure grounds.

70. These heritage assets are over 250m from the appeal site and between the site and these assets are the Farmhouse and the associated curtilage listed buildings and a coppice of trees as well as those around the appeal site. Taking into consideration the distance between those assets and the site and the existing development and vegetation, the proposal would not affect the setting of them and thus preserve the settings of the heritage assets and the contribution the setting makes towards their significance. I note the Council also had no concerns in this regard.

Planning Balance

71. As discussed earlier the scheme would lead to economic, social and environmental benefits. The site is also located near to services and facilities that could be accessed via alternative transport provision. In light of the Council's shortfall in the delivery of plots for self-build and custom housing I attach moderate weight in favour of the development
72. The proposal would not be suitably located with regard to the housing strategy for the area. It would also harm the character and appearance of the area as well as fail to preserve the setting of the heritage assets. The scheme would also fail to provide suitable arrangements for refuse and recycling collection. As a result, the proposal would conflict with the policies in the development plan relevant to these matters and this would result in a conflict with the development plan as a whole.
73. The benefits of the scheme must be weighed against the harms that would arise from the development and I afford such considerations significant weight in decision making terms. As a result, the material considerations do not outweigh the conflict with the development plan.

Conclusion

74. For the reasons given above, the proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, I conclude that the appeal should be dismissed.

G Sibley

INSPECTOR