



Appeal Decision

Site visit made on 12 January 2026

by R Major BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 January 2026

Appeal Ref: APP/P2365/W/25/3374002

Land between the Old Exchange and Hulmes Bridge Business Centre, North Moor Lane, Halsall, Lancashire L39 8RF

- 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 Mark Keogan of ABC Case Management Services Ltd against the decision of West Lancashire Borough Council.
 - The application Ref is 2025/0318/FUL.
 - The development proposed is brain injury rehabilitation centre with associated facilities and ancillary car-parking provision.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Within their final comments submission, the appellant has confirmed that the appeal site address is “*more correctly described*” on the decision notice. The site address within the above banner heading is therefore taken from the decision notice. I have however added the postcode in the interest of clarity.
3. The appeal site is located within the Green Belt. The Council’s submissions state that whilst outside the defined settlement boundary of Halsall, the proposed development represents limited infill within a village for the purposes of the Green Belt assessment, in accordance with the exception at paragraph 154 (e) of the National Planning Policy Framework (the Framework). Accordingly, the Council state that the proposed development would not represent inappropriate development within the Green Belt. On the evidence before me, and from what I observed on site, I see no reason to disagree.

Main Issues

4. The main issues are:
 - whether the appeal site is a suitable location for the proposed development, including its accessibility by sustainable modes of transport;
 - the effect of the proposal on the character and appearance of the area, with respect to its effect on trees;
 - whether the proposed development meets statutory biodiversity net gain objectives;
 - the effect of the proposal on protected species; and

- the effect of the proposal on highway safety, with particular regard to car parking and deliveries;

Reasons

Suitable location

5. The appeal proposal seeks consent for a new build brain injury rehabilitation centre, with associated facilities and ancillary car-parking provision. The proposed development would therefore provide a community facility and I find that West Lancashire Local Plan 2012 – 2027 (adopted 2013) (LP) Policy IF3 is relevant in the determination of this appeal.
6. This policy states that to create sustainable places for communities, proposals for development should make the most of existing infrastructure by focusing on sustainable locations with the best infrastructure capacity and where appropriate demonstrate how access to services will be achieved by means other than the car.
7. With specific regard to community facilities this policy states that new public facilities and services should be co-located where possible, creating “community hubs” and providing a range of services in one sustainable and accessible location.
8. In this regard, whilst I note that the appellant states they require a large site with outside space, no evidence has been provided to demonstrate that they have considered any sites on, or near to, existing public facilities and services to create a “community hub” that provides a range of services in one location.
9. Turning to the sustainability and accessibility of the appeal site itself, whilst the Council have confirmed that the appeal site was considered to be within a village for the purposes of the Green Belt assessment, the evidence before me is that the site is located outside of the defined settlement boundary(s) of Halsall. Furthermore, the Council’s submission states that the nearest larger settlements are more than 5km from the appeal site.
10. In this regard, I observed on site that whilst situated within a small cluster of built linear development occupying both sides of North Moor Lane, the appeal site is located within a rural setting. My attention has however been drawn to nearby bus stops on Halsall Road, which are within walking distance of the appeal site.
11. The Council has stated that these bus stops are served by two bus routes, which provide access to Liverpool, Southport and St Helens. However, I have very limited detail before me in terms of the exact bus routes, their frequency and the time it takes to get to these destinations. Additionally, very limited information has been provided in terms of walking and cycle times between other settlements and the appeal site.
12. As such, based on my observations on site and the information before me, I find that the appeal site is not well served by sustainable modes of transport and users of this community facility would therefore be reliant on the private vehicle for access. The appeal site is therefore not located within a sustainable location.
13. In coming to the above view, I am cognisant that Paragraph 89 of the Framework states that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations not well served by public transport. This paragraph also states that the use of previously

developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.

14. The appellant has alerted me to their existing office on the adjoining Hulmes Bridge Business Centre, stating that the proposal seeks to expand the business, and this is not possible at the existing site / office. It is therefore claimed that the proposal would represent the expansion of a business in a rural area.
15. It is also asserted that the proposal would be different to the existing office site, as the appeal site is much larger and would provide both indoor and outdoor services. The appellant therefore states that the proposal would provide a bigger building and allow for a more extensive use in comparison to the existing office.
16. Be that as it may, I find that it has not been adequately demonstrated why the appeal proposal must be located on this particular site, or this specific area, as opposed to other more sustainable and accessible locations. To the contrary, the submitted evidence and letters of support suggest that the proposed use would serve, and be visited by, patients from a wide geographical area. To that end, it is unclear why the appeal proposal requires a rural location which, for the reasons given, has limited levels of accessibility by sustainable modes of transport.
17. As such, I find that the appellant has not satisfactorily demonstrated that there is a local business and community need for the proposed development in this rural area.
18. I note the appellant comments that the existing office use at the adjacent site has visitors and has the same level of accessibility and sustainability as the appeal site. I have however been provided with limited details as to the existing activities that take place, and staff numbers, at the current office use.
19. Moreover, the appellant's final comments submission acknowledges that the proposed development and use would not be the same as the existing office use, as it would be more extensive. As such, I find that the existing office use and the proposed development are not directly comparable, and the existence of the existing office does not therefore provide justification for the lack of sustainability and accessibility of the appeal site.
20. I also note that the appellant states that they have purchased the appeal site and this should be considered a relevant factor in the determination of this appeal. However, the appellant's ownership of the land does not negate the requirement of Policy IF3 to consider other more sustainable and accessible locations for the appeal proposal.
21. In view of all the above, based on the evidence before me and my observations on site, I have found that the appeal site would not be well served by sustainable modes of transport and users would therefore be reliant on the private vehicle for access to this community facility. Furthermore, the appellant has not demonstrated that they have looked at sites on, or near to, existing public facilities and services to create a "community hub". Consequently, I conclude that the appeal site does not represent a suitable location for the proposed development and conflicts with the requirements of LP Policy IF3, the relevant provisions of which I have set out above.
22. Whilst acknowledging that sustainable transport solutions vary between urban and rural locations, the proposal would also fail to accord with the Framework where it

expects development to promote sustainable travel modes, such as walking and cycling, that limit future car use.

Character and appearance

23. The appeal site lies within a rural area characterised by the activities of agriculture. Worked fields, hedgerows and trees, as well as linear clusters of built development fronting onto highways, underpin the distinctive character of this rural area.
24. The appeal site is located within one of these linear clusters of built development, specifically between the detached residential dwelling known as the Old Telephone Exchange and Hulmes Bridge Business Centre, with a frontage and vehicular access gate onto North Moor Lane.
25. This cluster of built development largely consists of detached dwellings of varying ages and architectural styles. However, they are predominantly set back from the highway behind front boundary hedging, trees and walls. These trees and hedgerows provide an attractive verdant character to this cluster of buildings, in keeping with the rural character of the wider area.
26. During my visit I observed that the appeal site is predominantly covered in grassland, with overgrown areas of vegetation, as well as trees and hedging. Whilst I note that items were being stored on the site, including bricks, stones and wooden pallets, the site was largely devoid of any structure, except for two shipping containers situated close to its eastern boundary.
27. A number of trees at both the front and rear of the site are significant in height, with the trees, and hedgerow, at the front being prominently viewed from the highway of North Moor Lane. The trees at the rear are also visible from Halsall Road. The appeal site therefore has a green and undeveloped character when observed from nearby highways and makes a positive contribution to the defining characteristics of this area.
28. The submitted evidence details that several trees on the site are covered by Tree Preservation Order (TPO) No. 42/2004. The Council have submitted a TPO plan which identifies the trees at the front (G2) and rear (G3) of the site are subject to this Order.
29. The planning application was accompanied by an Arboricultural Report¹ (AR) which identifies the majority of trees on the appeal site as Category (Cat) B quality, with some rated as Cat C trees.
30. The submitted plans show that four individually surveyed trees towards the front of the site (*T02 – Copper Beech – Cat C; T03 – Oak – Cat B; T04 – Oak – Cat B; and T09 – Ash – Cat C*)², as well as a group of trees along the western boundary (G02 – Cat C), would all be removed as part of the appeal proposal. The submitted plans show 3no. replacement fruit trees would be planted along the western boundary.
31. Based on my observations on site, I find the loss of the Cat C trees identified as T02 and T09, as well as G02, would not have a harmful impact upon the character and appearance of the area as these trees are either not prominently visible from

¹ Prepared by arbtech dated 18 September 2024

² As labelled on the submitted AR

outside the appeal site; are suffering from ash dieback; or are being suppressed by larger trees on the site.

32. However, whilst not directly fronting onto North Moor Lane, I find the Cat B trees identified as T03 and T04 are visible from outside the appeal site and do make a positive contribution to the character and appearance of the area. The loss of these trees would therefore result in some visual harm to the character and appearance of the appeal site and area.
33. Moreover, the submitted plans show that the proposed areas of new hardstanding would encroach significantly into the root protection areas of several Cat B trees, covered by the TPO, at both the front and rear of the site. The Council's Arboricultural Officer has raised concerns in respect of the potential impact of the proposed works within the root protection areas of these trees.
34. Whilst the submission is accompanied by an AR, very limited details have been provided in respect of the potential impact of these proposed works within the root protection areas of these trees. Additionally, I note the 'Recommendations' section of the appellant's AR advises that to ensure that there are no irrevocable issues to the proposed retained trees, an Arboricultural Impact Assessment; an Arboricultural Method Statement and a Tree Protection Plan drawing should be obtained. These documents have not been provided as part of the appeal scheme.
35. Consequently, I find that the appeal submission includes insufficient information to enable me to conclude that the proposed development would not have a harmful impact upon the health of trees within the appeal site which are covered by a TPO. In the absence of this information the appeal proposal could cause significant harm to these protected trees which, for the reasons detailed earlier, currently make a positive contribution to the character and appearance of the area.
36. Policy EN2 of the LP states that development involving the loss of, or damage to, trees of significant amenity value will only be permitted where the development is required to meet a need that could not be met elsewhere, and where the benefits of the development clearly outweigh the loss or damage.
37. In this regard, as detailed earlier in this decision letter, I find that the appellant has not adequately demonstrated that the appeal proposal is required to meet a need that could not be met elsewhere. In terms of the benefits of the proposal, I will consider and discuss these in more detail within the "Other Considerations" section of this letter, however I do not find that the benefits of the development would clearly outweigh the identified harm.
38. In view of the above, I conclude that the proposed development would significantly encroach into the canopy and root spread areas of protected trees and without the requisite information to demonstrate otherwise, the proposal could result in significant harm to, or the loss of, protected trees situated at both the front and rear of the appeal site. These protected trees currently make a positive contribution to the visual amenity of this area, and any potential harm to, or loss of, these trees caused by the development would therefore have a harmful visual impact upon defining and positive characteristics of this area.
39. The appeal proposal would therefore conflict with LP Policy EN2 where it requires, amongst other things, that development involving the loss of, or damage to, trees of significant amenity value will only be permitted where the development is

required to meet a need that could not be met elsewhere, and where the benefits of the development clearly outweigh the loss or damage; that development avoids encroachment into the canopy area or root spread of trees considered worthy of retention; and that sufficient information should be submitted alongside proposals for development to enable the Council to assess the effects on trees.

40. The proposal would also be contrary to paragraph 136 of the Framework which states that decisions should ensure that existing trees are retained where possible.

Biodiversity Net Gain

41. On 12 February 2024, the provisions of the Environment Act 2021 relating to biodiversity net gain (BNG) came into force for major developments, and on 2 April 2024 this was extended to include smaller sites.
42. Under Article 7(1A) of the Town and Country Planning (Development Management Procedure) Order 2015 ('the DMPO'), applications for planning permission submitted after these dates are required to be accompanied by certain information relating to BNG.
43. The minimum information required includes a completed biodiversity metric calculation, showing the biodiversity value of the on-site habitat, and various other related details which are listed in full in sub-paragraph (c) of the above Article. This requirement applies to all planning applications, except where one of the exemptions specified in the legislation applies.
44. These exemptions are set out in paragraph 17 of Schedule 7A of the Town and Country Planning Act 1990 and the Biodiversity Gain Requirements (Exemptions) Regulations 2024 (BGR Exemptions Regulations). One such exemption is that the development would meet the de minimis exception as per Regulation 4 of the BGR Exemptions Regulations.
45. This de minimis exemption states that –
- 4.—(1) The biodiversity gain planning condition does not apply in relation to planning permission for development which meets the first and second conditions.*
- (2) The first condition is that the development does not impact an onsite priority habitat.*
- (3) The second condition is that the development impacts—*
- (a) less than 25 square metres of onsite habitat that has biodiversity value(1) greater than zero; and*
- (b) less than 5 metres in length of onsite linear habitat.*
46. Within the submitted planning application form the appellant has stated that the general BNG condition would not apply to the proposed development on the basis that the development is subject to the de minimis exemption because the site is under 25 square metres and no habitat would be affected. This is reiterated within the submitted Design and Access Statement where the appellant states “A ... *Biodiversity Net Gain Calculation report has not been prepared in this case as the site is previously developed land and does not impact an onsite priority habitat*”.

47. The Council however state, within the Officer Report, that they do not agree that the development is subject to this exception to the BNG requirements. The Council explain that the land is currently overgrown with vegetation and there is a significant amount of habitat within the site which would be affected or lost because of the proposed new areas of development.
48. In respect of this matter, during my site visit I observed that the appeal site predominantly consists of grassland, with overgrown areas of vegetation, as well as trees and hedging. No substantive evidence has been provided by the appellant to demonstrate that the development would not impact an onsite priority habitat.
49. Nevertheless, and irrespective of any potential impact on onsite priority habitat, I find that the proposed development, which seeks consent for a new building, with areas of new hard surfacing for vehicular access and parking, would impact on more than 25 square metres of onsite habitat that has a biodiversity value greater than zero.
50. Consequently, based on the details shown on the proposed plans, as well as my observations of the existing condition of the appeal site, I find that the proposed development would not meet the de minimis exception as per Regulation 4 of the BGR Exemptions Regulations. No substantive evidence has been provided by the appellant to demonstrate otherwise.
51. The appellant has suggested that they would be willing to appoint a suitably qualified BNG consultant to provide an assessment as part of this appeal process, should the Planning Inspectorate consider it necessary. But even if any such report were to include all the information needed to satisfy the minimum information requirements, the fact remains that, other than where one of the BNG exemptions applies, that information is required to be submitted as part of the initial planning application.
52. Furthermore, any such submission would require a high degree of technical complexity and should therefore be properly considered by the Council during the planning application process. I therefore do not find it appropriate for the minimum information requirements, that should have been submitted with the planning application, to be submitted as part of the appeal process.
53. In view of all the above, based on my observations on site, and the lack of substantive evidence to suggest otherwise, I conclude that there is no valid exemption and the proposed development is therefore subject to the biodiversity gain condition and the minimum information requirements.
54. In the absence of the minimum information requirements being provided with the planning application, the appeal proposal fails to meet the statutory duty for BNG as set out under Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021).

Protected species

55. Policy EN2 of the LP states that where there is reason to suspect that there may be priority species, or their habitat, on or close to a proposed development site, planning applications should be accompanied by a survey assessing the presence of such species and, where appropriate, making provision for their needs.

56. The Council draw my attention to the appeal site being situated approximately halfway between two Biological Heritage Sites (BHSs) at Halsall and Plex Mosses; and Scarisbrick Hall Woods and Dam Wood. However, there is limited information before me in respect of the distance between the appeal site to either of these BHSs.
57. Nevertheless, as detailed above, the appeal site predominantly consists of grassland, with overgrown areas of vegetation, as well as trees and hedging. With this in mind, and given the surrounding rural nature of the wider area, I consider the appeal site has significant potential to be used by protected species and/or their habitats. The appellant has submitted no substantive evidence or information to demonstrate otherwise.
58. I therefore conclude that a preliminary ecological survey, undertaken by a suitably qualified person, is required to establish if the appeal proposal would have any potential impact upon protected species in this area prior to determination of this proposal.
59. I acknowledge the appellant's comments that the Council never requested this survey, and one would have been undertaken if advised of such. Nevertheless, this does not alter my view that such a survey is required prior to determination of this proposal.
60. Consequently, I conclude that there is insufficient information to adequately demonstrate that the proposed development would not cause harm to protected species. The proposal would therefore conflict with the priority species aims of LP Policy EN2, the relevant provisions of which I have set out above.
61. Furthermore, in the absence of any ecological survey I cannot be sure the proposal accords with paragraph 193 (a) of the Framework, which states that if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

Highway Safety

62. The appeal proposal would provide off-street parking provision for 10no. cars, with the submitted plans showing 5no. spaces for staff, 4no. designated visitor parking spaces and 1no. accessible car parking space. The Council claim that in accordance with the parking standards set out in Appendix F of the LP for health clinics and centres, the proposal is required to provide 12no. car parking spaces, as well as additional requirements associated with the workshop / training room and allotment garden area. The Council's submissions do not however provide a figure in respect of these additional requirements.
63. I acknowledge the proposal would provide an under provision of car parking provision against Appendix F of LP, as well as the claim from the Council that given the unsustainable location of the appeal site most users of the facility would drive. However, the appellant states that the level of parking provision has been designed for the proposed use. In this regard, the submission details that approximately 4 patients will visit the facility per hour and based on this information, I find the level of proposed parking provision to be acceptable for this development.

64. Furthermore, whilst no objection has been received from the County Highway Officer, I note the Council's concerns that any under provision of parking would result in vehicles parking on the highway, leading to an adverse impact on highway safety for both vehicle users and pedestrians. However, I observed that there are no Traffic Regulation Orders preventing vehicles from parking on the highway outside the appeal site, and I noted vehicles were parked on this highway throughout my visit.
65. Based on my observations on site I did not find that the vehicles parked on the highway caused any specific highway safety danger issues. Therefore, even in the scenario whereby some visitors of the appeal site would have to park on the highway, I do not find that this would result in an unacceptable impact on highway safety.
66. The Council have also raised concerns in respect of a lack of provision for delivery vehicles within the site. Again, I note that no such concern is raised by the County Highway Officer.
67. Nevertheless, the appellant's submission explains that deliveries would be infrequent and, in any case, most likely undertaken using the appellant's own car. Furthermore, in the likely rare event that a delivery was undertaken by a van, I consider that there is sufficient provision within the appeal site for such a vehicle to safely park for a short period of time to allow for such a delivery to take place. As such, and given the use proposed, I do not consider it necessary for the appeal proposal to provide specific facilities and provision for deliveries.
68. Whilst the County Highway Officer has raised no objection to the proposed amended vehicular access into the site, interested parties have raised concerns that the proposed access would create highway safety issues due to conflict with existing residential accesses on the opposite side of the road.
69. It is not however uncommon for vehicular accesses to be located on the opposite side of the highway to each other. Additionally, given the likely level of vehicle movements associated with the proposed development, and the residential properties opposite, as well as my observations of vehicular movements along this highway during my site visit, I do not find that the proposed access would have an unacceptable impact on highway safety.
70. In view of the above, I conclude that the proposal would provide adequate on-site parking and delivery provision for the proposed development and would not have a harmful impact upon highway safety. I therefore find no conflict with LP Policy IF2, where it requires, amongst other things, that provision below the parking standards should be supported by evidence detailing the local circumstances that justify a deviation from the policy, including the proposed use.
71. The proposal would also comply with the Framework where it states development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Other Considerations

72. The appellant has claimed that the appeal³ site is previously developed land, the re-use of which is supported by the Framework. The Council do not however consider the appeal site is previously developed land.
73. In support of their claim the appellant has provided evidence that the site previously consisted of an agricultural building, and it is asserted that this building and site were used for storage purposes once the agricultural use ceased. In support the appellant has provided a letter from the occupier of Ivy Cottage on Flash Lane which details that after the building and site were no longer used in connection with farming in the early 1970s, the site was used for the storage of road vehicles, machinery and equipment until 1987. This letter does not however detail any use of the site since 1987.
74. Nonetheless, Annex 2 of the Framework provides the definition of previously developed land and requires the land to be “*lawfully developed*”. It also states that previously developed land excludes “*land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.*”
75. In view of this definition, whilst I acknowledge the comments from the appellant and the letter of support in respect of the storage use of the appeal site after the agricultural use ceased, I have not been provided with any evidence that this storage use was “*lawful*”, by way of a copy of an approved planning permission or lawful development certificate. It has therefore not been demonstrated that this claimed historic storage use at the appeal site was “*lawfully developed*” as required by the definition of previously developed land within the Framework.
76. During my visit I did note that parts of the appeal site were currently being used for ad hoc storage purposes. Stored items included bricks, stones and wooden pallets, as well as two shipping containers. However, I have not been provided with any information or evidence to demonstrate that the storage use I observed has been lawfully developed.
77. Furthermore, despite the existence of some items being stored on the site, I observed that the appeal site is predominantly covered in vegetation. I therefore found that the remains of any previous permanent structure or fixed surface structure associated with any claimed historic storage use have blended into the landscape.
78. Consequently, based on the information before me and my observations on site, I find that the appeal site does not represent previously developed land, as per the definition in the Framework. I note my conclusion that the appeal site does not represent previously developed land is in keeping with a previous Inspector’s decision⁴ at the appeal site. However, I do not have all the details of what information was before that Inspector and thus I have come to my own conclusion on this matter.
79. The proposed development would provide social benefits through the provision of an important brain injury facility that, according to the submissions and letters of representation, would be used by a significant number of local people and those throughout the northwest. The appellant and interested parties writing in support of the proposal, including professionals within this industry, have commented on both

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⁴ APP/P2365/A/09/2102740

the benefits and the need for this facility, as well as the lack of similar facility within Lancashire and Sefton.

80. The appellant explains that the facility would be free at the point of access and patients would be referred from health and social care services, as well as self-referrals. The proposal would provide a place for patients to engage in activities, including gardening, woodwork, cooking and the gym, and would also offer training and support for family members. It has also been suggested that a rural location is ideal for the proposed use.
81. Given that the proposal would benefit people suffering from brain injuries I have also had due regard to the Public Sector Equality Duty (PSED) under the Equality Act 2010. Disability is a relevant protected characteristic to which the PSED applies. These rights are engaged in reaching my decision and I have kept these interests at the forefront of my mind. However, they are qualified rights and interference may be justified where in the public interest. The concept of proportionality is key, and I will return to this matter in my planning balance.
82. In view of the above, and acknowledging all the letters of support received for the development, I attribute significant weight to the social benefits that would arise from the appeal proposal.
83. The development would also provide economic benefits during the construction phase, albeit these would be short term benefits. The proposal would also provide employment opportunities by way of 4no. new staff members at the facility. Given the scale of the development and the employment opportunities it would create, I attribute moderate weight to these economic benefits.
84. I note the submitted plans show the provision of photovoltaic panels on the roof of the proposed building. However, I have limited substantive evidence before me in respect of the overall environmental benefits of the appeal proposal.
85. Furthermore, and for the reasons given earlier, I have found that insufficient information has been provided in respect of the impact of the appeal proposal on trees and protected species, and the minimum information requirements have not been provided to meet the statutory duty for BNG. In the absence of this detail, I attach only very limited weight to the environmental benefits of the proposal.

Planning Balance

86. I have found that the proposal would provide adequate on-site parking and delivery provisions for the proposed development and would not have a harmful impact upon highway safety.
87. However, I have concluded that the appeal site would not be well served by sustainable modes of transport and users would therefore be reliant on the private vehicle for access to this community facility. Furthermore, the appellant has not demonstrated that they have looked at sites on, or near to, existing public facilities and services to create a “community hub”. The proposal therefore conflicts with the requirements of LP Policy IF3 and the provisions of the Framework which seek to promote the use of sustainable travel modes. I find the harm arising from this conflict to be significant.
88. Additionally, insufficient evidence has been provided to adequately demonstrate that the appeal proposal would not have a harmful impact on the protected trees which

currently make a positive contribution to the character and appearance of the area. I attribute significant weight to the visual harm that could arise from the potential harm to, or loss of, these trees which could be caused by the proposed development.

89. I have also found that insufficient information has been submitted to adequately demonstrate that the proposed development would not cause harm to protected species and the minimum information requirements have not been provided to meet the statutory duty for BNG. I attribute significant weight to both these identified harms.
90. For the reasons detailed above, I have attributed very limited weight to the environmental benefits; moderate weight to the economic benefits; and significant weight to the social benefits that would arise from the appeal proposal. However, I conclude that when taken together the above-mentioned benefits do not outweigh the collective level of harm that would arise from the development as a whole.
91. In reaching this conclusion I have had regard to my duty to acknowledge the PSED's objective of advancing equality of opportunity between persons who share a relevant protected characteristic and those who do not. However, the cumulative harm arising from the proposal outweighs the benefits in terms of eliminating discrimination against persons with the protected characteristics of disability, as I find that there will likely be other facilities, or more suitable alternative sites or layouts for the proposed facility, which could provide care and facilities for persons suffering from brain injuries without causing the harms I have identified. I consider that it is therefore proportionate and necessary to dismiss the appeal.

Conclusion

92. The proposal conflicts with the development plan taken as a whole and the material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above, and having regard to all matters raised, the appeal is dismissed.

R Major

INSPECTOR