



Appeal Decision

Site visit made on 20 February 2024

by **O Marigold BSc DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 05 March 2024

Appeal Ref: APP/Y3940/W/23/3331278

Land off Ashton Road, Hilperton, Wiltshire BA14 7QY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs C Stone against the decision of Wiltshire Council.
 - The application Ref is PL/2022/08726.
 - The development proposed is erection of 1 no. dwelling and detached garage.
-

Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr and Mrs C Stone against Wiltshire Council. This application is the subject of a separate Decision.

Planning Obligation

3. A Unilateral Undertaking (UU) pursuant to section 106 of the Town and Country Planning Act 1990 has been submitted by the appellants. It seeks to make a financial contribution to mitigate the effects of the proposal on bats. However, the UU before me is undated and so I have some concerns about its effectiveness. The effect of the proposal on bats is a matter that I will consider further below.

Main Issues

4. The main issues are:
 - the effect of the proposal on the character and appearance of the area, including the identity of Hilperton village, the adjacent Hilperton Conservation Area (CA) and The Grange as a Non-Designated Heritage Asset (NDHA), and
 - whether the proposal complies with the settlement strategy of the Development Plan.

Reasons

Character and Appearance

5. The site consists of green lawn, surrounded by thick hedgerows but otherwise open and essentially undeveloped. As such, it has the appearance of countryside. The proposal seeks to erect a large, 2.5 storey detached dwelling on the site, to be constructed of red brick with dormers, with a design that includes quoins. Also proposed is a triple garage and home office, which would

- also have dormers. To ensure adequate highway visibility, part of the existing frontage hedgerow would be re-sited behind a splay.
6. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that I pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. The adjacent CA encompasses the historic core of Hilperton including rows of small cottages interspersed by larger houses. Relevant to this appeal, its significance is the age and attractive, semi-rural village character of its buildings and street scenes.
 7. Opposite the site, the CA extends to include The Grange (also referred to as Hilperton Grange) and its grounds. It is a large Victorian house of grandeur, set within a pleasant garden with significant planting. The Grange constitutes a Non-Designated Heritage Asset, with its significance being the attractive appearance of the house and its grounds, including its grand stone entrance walls.
 8. The site adjoins residential development at Ashton Drive, which forms part of Hilperton village. Close to the southern boundary of the site is a modern housing estate at Paxcroft Mead, within Trowbridge town. Nevertheless, Ashton Road hereabouts has the appearance of a rural lane. This is because of the tall trees and hedgerows lining either side of the road, the absence of pavements, and its status as a no through road. For these reasons, the site forms a narrow gap of countryside between the two settlements.
 9. The Wiltshire Core Strategy (WCS), adopted January 2015, seeks to protect and conserve landscape character and the separate identity of settlements such as Hilperton, and requires that open countryside should be maintained to protect this. The Hilperton Neighbourhood Plan (NP), adopted November 2018, and the Hilperton Village Design Statement (VDS), adopted 2004, also identify the importance of countryside to the village setting and of preserving a separate village identity.
 10. The site is not within the 'Hilperton Gap', identified in the NP to protect the identity of the village. Around Cresswell Drive and Norris Road, the coalescence of built form means that the settlements of Hilperton and Trowbridge are almost indistinguishable. New housing such as at Cedar Tree Close and Centenary Close has been developed, post-dating the 2000 dismissed appeal¹ at the site. Even so, visually and spatially, the site and its immediate surroundings, including the grounds of The Grange, continue to form a rural edge to Hilperton. They also provide a sense of transition from one settlement to the other.
 11. The proposed dwelling would be set well back from the edge of the road, although the driveway, detached triple garage and home office would be closer to it. The proposal would be slightly set down, but the ground level is already higher than the road. Despite the screening from hedgerows, I saw that the proposal would be visible from Ashton Road, including from the entrance to the site, as well as from within the CA, including from The Grange and its gardens.
 12. Space would remain between the proposal and the existing development either side of it. Nevertheless, the large size, mass and scale of the built form of the

¹ PINS reference APP/F3925/A/00/1041721

proposal, together with the creation of a formalised visibility splay, would diminish the visual and spatial gap provided by the appeal site. As such, it would undermine the separate identity of the village core. Furthermore, by consolidating and urbanising this part of Hilperton, it would erode the semi-rural, village character of the adjacent CA. For similar reasons, the additional built form and splay of the proposal would detract from the attractive setting of The Grange, including its gardens and entrance walls.

13. Reference has been made to other decisions² where permission has been granted for dwellings outside of the Hilperton Settlement Boundary, close to or within the CA. However, these relate to parcels of land that do not have the same relationship with Trowbridge as the appeal site. As such, they are not directly comparable to the proposal before me. Even if permitted development rights could be utilised at the site, under General Permitted Development Order Class E, any building would be limited to one storey, so would not have the same harmful effects as the proposal.
14. The proposed dormers would not in themselves adversely affect wider roof lines or views, and so would not conflict with the aim of the VDS in respect of dormers. The proposed red brick materials would reflect dwellings in Hilperton such as Cockhatch. The use of quoins would be more reflective of dwellings at Paxcroft Mead, but they are a relatively small detail. Consequently, I do not consider the design of the proposal to be unacceptable.
15. Nevertheless, for the reasons given above, I conclude that the proposal would harm the character and appearance of the area, including the identity of Hilperton village, the adjacent CA as a whole and the NDHA. It would conflict with WCS Core Policies 51, 57 and 58 which seek to preserve and reinforce the separate identity of settlements, enhance local distinctiveness and conserve the historic environment.
16. The proposal would similarly conflict with the National Planning Policy Framework (the Framework) which gives great weight to the preservation of designated heritage assets; requires harm to the NDHA to be taken into account, and desires that new development contributes to local character and distinctiveness. I therefore give this conflict significant weight. In the language of the Framework, the harm to the designated heritage asset (the CA) would be less than substantial. Accordingly, as required by the Framework, I will weigh the harm to the CA against the public benefits of the proposal below.

Settlement Strategy

17. WCS Core Policies 1 and 2 set out the settlement strategy for Wiltshire. They strictly control new development outside of settlement boundaries, as here, and set a general presumption against development outside the defined limits of Principal Settlements (such as Trowbridge) and Large Villages (including Hilperton).
18. The proposal does not constitute one of the circumstances at paragraph 4.25 where Core Policy 2 allows development outside the boundaries, such as rural exception sites. NP Policy H2 does exceptionally permit housing in the countryside where it satisfies national policies and delivers amongst other things self-build homes. However, I have already found that the proposal would

² LPA references PL/2021/03253 and PL2022/05120

not satisfy national policies, in particular the Framework. As such, NP Policy H2 does not provide support for the proposal.

19. The site is not isolated and has good access to services and facilities. Even so, I am mindful that the boundaries have been drawn here to exclude the site from either settlement, and that the Framework requires recognition of the intrinsic character and beauty of the countryside. For the above reasons, the proposal would not comply with the settlement strategy of the Development Plan and would conflict with WCS Core Policies 1 and 2. I therefore give this significant negative weight in the planning balance.

Other Considerations

20. The proposal is within the consultation zone for Bechstein's bats, associated with the Bath and Bradford-on-Avon Bat Special Area of Conservation (SAC). It is also within the risk and recreational zones of the Trowbridge Bat Mitigation Strategy Supplementary Planning Document (SPD). The presence of Bechstein's bats here has been assumed, not least because of harm to them that can be caused by undertaking surveys of their presence.
21. The proposal includes a buffer zone providing a dark corridor for bats, new and translocated hedgerow, new trees, planting and other ecological enhancements. Bat and bird boxes would also be placed within the site. These measures could be secured by planning condition. If effective, the UU would secure a financial contribution towards off-site strategic bat habitat enhancement, restoration and creation in mitigation.
22. The driveway and lighting are within the buffer area, such that the SPD may not be fully complied with. However, the focus of the SPD is on large-scale housing allocations, rather than smaller development such as the proposal. Whether the proposal would result in positive biodiversity metric calculations for habitats and hedgerows is disputed by third parties. Nevertheless, there is no requirement for the proposal to achieve biodiversity net gain.
23. The Council's Ecologist and Natural England are content with the proposed mitigation and the effect of the proposal on bats, and I see little reason to disagree. On this basis, I conclude that the proposal would not adversely affect bats. Indeed, the proposed measures may well result in minor positive benefits to biodiversity.

Planning Balance and Conclusion

24. In accordance with the Framework, the less than substantial harm to the designated heritage asset must be weighed against the public benefits of the proposal. The proposal would positively contribute to housing supply, including for self-build dwellings. However, being for a single dwelling, this contribution would be small. I therefore give these benefits only limited weight.
25. Future occupiers of the proposal would make a positive social and economic contribution to the area. It would also have economic benefits, for example to local businesses and the building industry. The proposal would make more efficient use of land, on a site that could be delivered quickly. However, these benefits would be limited because of the small size of the proposal. I also give limited weight to the benefits to bats and biodiversity identified above.

26. Consequently, I conclude that the public benefits of the proposal are not sufficient to outweigh the less than substantial harm to the CA. Nor do these benefits outweigh the overall harm resulting from the proposal that I have identified above.
27. The parties dispute whether the Council can demonstrate a sufficient supply of deliverable housing sites. However, the policies in the Framework that protect assets of particular importance, including designated heritage assets, provide a clear reason for refusing the proposal in this case. As a result, the tilted balance of Framework paragraph 11(d) is not engaged.
28. Had I found in favour of the proposal, I would as competent authority have carried out an Appropriate Assessment in respect of the effects of the proposal on the SAC. However, in light of my conclusions, this matter need not be considered any further.
29. For the reasons given, I have found conflict with the Development Plan, read as a whole. The material considerations in this case do not indicate a decision other than in accordance with the Development Plan. This leads me to conclude that the appeal should be dismissed.

O Marigold

INSPECTOR



Costs Decision

Site visit made on 20 February 2024

by **O Marigold BSc DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 05 March 2024

Costs application in relation to Appeal Ref: APP/Y3940/W/23/3331278 Land off Ashton Road, Hilperton, Wiltshire BA14 7QY

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr and Mrs C Stone for a full award of costs against Wiltshire Council.
 - The appeal was against the refusal of the Council to grant planning permission for erection of 1 no. dwelling and detached garage.
-

Decision

1. The application for an award of costs is refused.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The PPG¹ advises that a Local Planning Authority may be at risk of costs on substantive grounds if it prevents or delays development which should clearly be permitted having regard to the Development Plan, national policy and any other material considerations. Amongst other things, it may also be at risk if it fails to produce evidence to substantiate its reason for refusal; makes vague, general or inaccurate assertions about the impact of the proposal; or does not determine similar cases in a similar manner.
4. The decision of the Local Planning Authority was made by its elected members, contrary to the advice of its planning officers. Whether or not the reasoning of members was prepared in advance of the Committee Meeting, the Council in its Statement of Case has provided sufficient evidence to substantiate its decision. Indeed, I have reached a similar conclusion in respect of the harm that would be caused by the proposal to the character and appearance of the area, including the identity of Hilperton village, the adjacent Conservation Area, and The Grange as a Non-Designated Heritage Asset.
5. As such, the Council did not act unreasonably in placing weight on an appeal decision at the site in 2000², notwithstanding changes to the surroundings and planning policy since that decision. For the reasons I set out in my decision letter, the Council has not been inconsistent in determining this case compared to other planning applications nearby. The housing land supply position evolved during the appeal but has not proved to be determinative to the outcome.

¹ Paragraph: 049 Reference ID: 16-049-20140306

² PINS reference APP/F3925/A/00/1041721

6. Accordingly, I find that the Council has not behaved unreasonably, having regard to the advice in the PPG. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

O Marigold

INSPECTOR