



## Appeal Decision

Hearing Held on 8 June 2021

Site visit made on 15 June 2021

**by Martin Allen BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 9 September 2021**

---

**Appeal Ref: APP/R3325/W/20/3259421**

**Land to the east of Penn View, Bayford Hill, Wincanton**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Greystoke Land Limited against the decision of South Somerset District Council.
  - The application Ref 20/00359/OUT, dated 31 January 2020, was refused by notice dated 2 July 2020.
  - The development proposed is a residential development of up to 100 dwellings with associated access, internal roads and footpaths, car parking, public open space, landscaping, drainage and other associated works and infrastructure.
- 

### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. Since the appeal was submitted the Government has published a new National Planning Policy Framework (the Framework). Comments were sought from the Council and the Appellant. As the main parties have had the opportunity to provide comments no injustice has been caused. I have considered the appeal on the basis of the revised Framework.
3. The application was submitted in outline with all matters reserved for future consideration. The submitted details include an Indicative Masterplan, which indicates a possible layout for the proposed development, together with the likely location of the new vehicular access to the site. I have considered these details on their indicative basis.
4. It was agreed at the hearing that the completed S106 legal agreement and CIL compliance statement would be submitted after the event.

### Main Issue

5. The main issue is the effect on the character and appearance of the area, including the effect on protected trees.

### Policy context

6. The appeal site is located outside of the settlement boundary for Wincanton. Policy SS5 of the South Somerset Local Plan (2015) (the Local Plan) sets out that a permissive approach will be taken when considering housing proposals

adjacent to the development area at Wincanton. On this basis, the Council accept that there is no in-principle objection to housing at this location. Based on the information I have seen I have no reason to disagree and have approached my consideration of the appeal scheme on this basis.

## **Reasons**

7. The appeal site comprises a number of field parcels to the eastern fringe of the settlement of Wincanton. It abuts the built-up area of the settlement to the west, lying adjacent to dwellings located along Penn View, while countryside extends to the north and east. To the southern boundary of the site is Bayford Hill, a road linking Wincanton with Bayford, which is bordered by a strong and important stretch of trees which is subject to a Tree Preservation Order (TPO). The field parcels comprising the site area are separated to varying degrees by the presence of hedging, with the hedging enclosing the westernmost parcel a particularly strong landscape feature in the local area. There was a more appreciable openness to the remainder of the site towards the west.
8. The topography of the site comprises an elevated portion to the west, with levels falling away to the east toward Bayford. As a result, the site is highly visible from the surrounding area, most notably from Bayford, and the undeveloped nature of the field parcels contributes significantly to the separation between Wincanton and Bayford. This degree of separation is a local landscape feature that has considerable importance. Details provided in respect of the Wincanton Peripheral Landscape Study show that while the westernmost field is categorised as being an area of low landscape sensitivity, the remainder of the site is shown to be of moderate sensitivity. Moreover, it identifies the whole appeal site as being of high visual sensitivity, as well as indicating that the majority of the site has a low capacity to accommodate built development, with only the field closest to the existing built-up area of Wincanton having a moderate capacity in this respect. In addition, the Wincanton Neighbourhood Plan identifies that part of the westernmost field within the appeal site lies within a visually sensitive area to the north of the settlement.
9. The Indicative Masterplan shows a layout of development with dwellings occupying the westernmost field adjacent to Penn View, extending into the adjoining parcel, and spreading eastwards and down the slope of the land towards Bayford. While this potential layout would restrict development to that part of the appeal site closest to Wincanton, it would extend a significant part of the way toward Bayford and as a consequence would erode the extent of the gap that currently exists between Wincanton and Bayford. I observed that from vantage points in Bayford to the east, within views of the appeal site there was a distinct lack of built form visible, other than a single property, with the existing boundary features generally screening views of properties within Penn View. The proposed scheme would introduce a considerable amount of built form into these views, at an elevated position and thus the development would be clearly visible and, in my view, would be an intrusive feature. I am conscious that as shown the development would not take up the entirety of the downward section of the slope towards Bayford, nonetheless the extent to which it would inevitably creep down the hill would result in a substantial and harmful loss of the open aspect of the appeal site.
10. This effect would also be appreciable from vantage points in the wider surrounding area, including from the viewpoint from which it was suggested

that I view the development. From the Public Right of Way (PROW) in the area of Church Farm to the east of the site, the open and rural appearance of the appeal site was evident, with adjacent development within Wincanton visible only along the skyline, and even then, its visual appearance was softened considerably by existing vegetation. This contributed to the countryside setting of Wincanton, that would be diminished by the proposed development extending down the slope towards Bayford. Moreover, from the PROW's in closer proximity to the appeal site that I was also directed to and walked along at the time of my site visit, there were also glimpsed and direct views of the existing fields, from which the proposed development would be seen and appreciated as an intrusive feature.

11. To the south of the site is Bayford Hill and along the boundary to this road is a substantial bank of trees, the entire length of which is covered by a TPO. One of the most notable and positive features of this tree bank was its continuity of presence along the road, which was reinforced by its current integrity and fullness. The trees are highly visible to users of the road and I find that they are collectively a feature of significant importance in the local area.
12. While access is a matter reserved for future consideration, the indicative details show the creation of a new access point along Bayford Hill. This would necessitate the removal of part of the bank of trees that I have described above. The submitted details indicate that 16 trees will need to be removed in order to construct an access, resulting in the creation of an approximately 35-metre-wide opening in the existing tree bank. In addition to this, there is a difference in ground levels between the road of Bayford Hill and that within the appeal site. This would necessitate the creation of some engineering features in order to create a safe and useable vehicular access to the development.
13. The details before me therefore show that a large intervention into the linear grouping of trees would be required as part of the development. The break in the continuous frontage of trees would be obvious and, I consider, significant. The uninterrupted sylvan appearance along the road would be lost and a feature of significant local importance would be harmfully diminished.
14. I acknowledge that the scheme would include elements of new landscaping that are intended to aid in the assimilation of the new development into the landscape. However, in respect of the built form of new housing, given the extent of visibility that I have referred to together with the topography of the appeal site and the surrounding land, I am not convinced that it would be possible to include landscaping that would ameliorate the harmful effects I identify. Furthermore, the inclusion of replacement tree planting would not overcome the harm resulting from the creation of a new access along Bayford Hill. While I am conscious that the appellant contends that the indicative details provided are a "worst-case" scenario, this does not allay my concerns.
15. Therefore, I find that there is nothing before me that convinces me that the appeal site can satisfactorily accommodate the proposed development. The development would result in substantial harm to the character and appearance of the area, including significant harm through the loss of protected trees. Accordingly, the proposals conflict with policies EQ2 and EQ5 of the Local Plan, insofar as they seek to ensure that development promotes local distinctiveness and preserves or enhances the character and appearance of the district, as well as that development maintains local identity.

## **Other Matters**

### *Housing Land Supply*

16. At the time of the determination of the planning application, the Council was unable to demonstrate a 5-year supply of deliverable housing sites. Following this, the Council considered that it was able to demonstrate a supply in excess of 5-years, referring to a 6.03-year supply within the appeal statement. There was discussion on this point at the hearing.
17. The principal matter of disagreement between the parties in respect of housing land supply centred on the effect of the Dutch N judgement and the unfavourable conditions of the Somerset Levels and Moor Ramsar Site (the Ramsar Site) due to the effects of eutrophication caused by excessive phosphates. The Council contended that housing sites were still coming forward and being delivered. It was the appellants position that while the appeal site is not directly affected by this issue, the consequences of the phosphates matter meant that there would be an effect on housing delivery, such that the Council would not be able to demonstrate a five-year supply of deliverable housing sites.
18. While the respective positions of the parties at the hearing are noted, since the close of the hearing I have been provided with a recent appeal decision<sup>1</sup> by the appellant. The Inspector in that case found that due to the effect of the phosphates issue, the Council is not able to demonstrate a five-year supply. The Council's views on this were sought and it confirmed that as a result of the Inspector's findings in that case, that the Council now accepts that there is no five-year supply of deliverable housing sites. Thus, the presumption in favour of sustainable development, as envisaged by paragraph 11 of the Framework is engaged.

## **Planning Balance**

19. I have found above that the proposal would be harmful to the character and appearance of the area, this includes the degrading of the rural setting of Wincanton and the loss of a number of protected trees that contribute greatly to the attractiveness of the area and form part of a bank of trees that have considerable local importance. I attribute very significant weight to this harm.
20. There would be a range of economic benefits resulting from the proposal. These include the provision of jobs during the construction of the development, wider economic benefits through household expenditure and a notable contribution towards the provision of affordable housing. These attract considerable weight. The appellant also refers to environmental benefits through the provision of public open space and I consider that moderate weight should be accorded to this. There is also reference to additional planting, including compensatory tree planting and biodiversity enhancement. Given that much of this would be mitigation for the effect of the development itself, I only accord these matters limited weight.
21. Overall, I consider that the package of benefits that would result from the development should be given substantial weight in the planning balance, particularly as the appeal scheme would deliver up to 100 houses. However, as I have identified above, I accord very significant weight to the harm that would

---

<sup>1</sup> APP/R3325/W/20/3265558

result. Accordingly, in my judgement the negative factors resulting from the proposals are sufficient to significantly and demonstrably outweigh the positive ones. Thus, the planning balance does not indicate that a decision should be taken other than in accordance with the development plan.

### **Other matters**

22. I acknowledge that the current proposal follows the refusal, and dismissal at appeal, of a previous scheme on the site. I am particularly conscious that the number of dwellings and extent of development has been reduced, as well as the location of the proposed access point being amended in order to reduce the loss of trees. In addition, the effect on heritage assets is no longer a matter of concern. Nonetheless, having considered the scheme on its merits I am satisfied that the planning balance falls against the proposal. As such, while there are differences between the previous scheme and that which is before me, I am not satisfied that the amendments contained within the current proposal reduce the harm previously identified to the extent which warrants allowing the development.

### **Conclusion**

23. For the reasons given above, and having regard to all matters raised, I conclude that the appeal should be dismissed.

*Martin Allen*

INSPECTOR

## **APPEARANCES**

### FOR THE APPELLANT:

Killian Garvey	Barrister, Kings Chambers
David Hutchinson, BSc (Hons) Dip TP MRTPI	Agent, Pegasus Group
Justin Hobbs, BSc (Hons), Arb Associations Technicians Certificate in Arboriculture, Lantra Professional Tree Inspection	MHP
Paul Harries, CMLI	MHP
Neil Tiley, BSc (Hons) ARTPI	Pegasus Group
Simon Tucker, BSc (Hons) MCIHT	Highway Engineer, David Tucker Associates

### FOR THE COUNCIL:

Debbie Reading, BSc Dip TP MRTPI	Specialist – Planning, South Somerset District Council
Liz Alexander, BA (Hons) MPhil MRTPI	Senior Associate, Bell Cornwell
Charles Potterton, BA Dip LA CMLI	South Somerset District Council
Philip Poulton, M Arbor.A	Tree Officer, South Somerset District Council

### INTERESTED PARTIES:

Laura Rose-Walker	Parish Councillor
Colin Winder	District Councillor
Stephen Hill	Town Clerk, Wincanton Town Council
Fletcher Robinson	Planner, Campaign for the Protection of Rural England - Somerset

## **DOCUMENTS**

### *Provided during the hearing*

1. Infographic relating to tree roots and retaining wall construction
2. Copy of policy SS2

### *Provided following the hearing*

1. CIL compliance statement
2. S106 agreement