



Appeal Decision

Site visit made on 28 August 2025

by J Moore BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 September 2025

Appeal Ref: APP/K2420/W/25/3364808

Land north east of Old White Cottage, 2 Newbold Road, Desford, Leicestershire LE9 9GS

- 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 Mr G Warren of Invicta Universal Ltd against the decision of Hinckley and Bosworth Borough Council.
 - The application Ref is 24/00975/OUT.
 - The development proposed is erection of a self-build, 3 bedroom split level dwelling with landscaping.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal form is unclear as to whether the description of development has been changed from that stated on the application form. A different description is entered which is same as that in the decision notice: *'Outline application for the construction of a 3-bedroom split-level dwelling with landscaping (Self-Build) (Scale, Landscaping, Layout and Access to be considered)'*. No confirmation has been provided of an agreed change in the description, and I have therefore used the description as stated on the application form in my banner heading above.
3. The application form clearly indicates that appearance is the only matter for which outline permission was sought. However, elsewhere on the application form, the proposed materials are stated to be reserved matters. I therefore sought clarification from the main parties. I am satisfied that before the validation of the application, the appellant made clear that appearance was the only reserved matter; and the outline application included matters of scale, landscaping, layout and access, with appearance being the only reserved matter. The application was determined by the Council on this basis, and I have therefore considered the appeal accordingly.
4. The appellant's evidence refers to the National Planning Policy Framework (the Framework). However, the paragraph numbers do not conform to the current version of the Framework, which was revised before the application was determined. For the avoidance of doubt, any reference to the Framework in my decision relates to the current version.

Background and Main Issues

5. The appeal site is adjacent to the Desford Conservation Area (CA), and adjacent to Old White Cottage, which is a grade II listed building. The appeal site is the subject of a previously dismissed appeal¹ for two detached dwellings. The evidence indicates that the dismissed scheme included a section of land serving Old White Cottage, such that part of that appeal site fell within the CA. In the appeal before me, no part of the appeal site falls within the CA.
6. The main parties agree that the proposal would not harm the setting or significance of the listed building. In the absence of any substantive evidence to the contrary and taking into account my statutory duty within section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act), I find no reason to disagree.
7. The first reason for refusal (RFR) indicates that in terms of the development plan, the proposal is located within the open countryside, and this fact is not disputed by the appellant. The appeal site is adjacent to the settlement boundary, and it is not disputed that the site would be in an accessible location. I find no reason to consider otherwise.
8. The reasons and cited policies in the first and second RFR overlap to a large degree. I will therefore consider the effect upon the open countryside and the character and appearance of the area together in one main issue.
9. The second RFR refers to the statutory duty under section 72(1) of the Act. However, as the appeal site lies outside of the CA, this statutory duty does not apply in this case, as the Council's Conservation Officer notes in his consultation response to the application.
10. Each of the three RFR refer to a planning balance. While it is necessary to consider the benefits of the proposal and the position regarding the Council's housing land supply including for self-build housing, I shall undertake my planning balance later in my decision.
11. Therefore, having regard to all the evidence before me, the main issues are:
 - the effect of the proposal upon the character and appearance of the area and the open countryside, including the setting and significance of the Desford CA and protected trees; and
 - whether the proposal would provide acceptable living conditions for future occupiers, with particular regard to outlook; levels of daylight and sunlight; and private amenity space.

Reasons

Character and appearance and the open countryside

12. As set out above, it is not disputed that the appeal site is located within the designated open countryside. Policy DM4 of the Site Allocations and Development Management Policies Development Plan Document 2016 (SADMP) sets out the types of development that may be acceptable in the countryside. It is not disputed that the proposal would not accord with any of the permitted types. The policy

¹ APP/K2420/W/17/3178033

objective is in accordance with the Framework in terms of recognising the intrinsic character and beauty of the countryside. Policy DM4 also seeks to avoid creating or exacerbating ribbon development.

13. The appeal site is situated adjacent to Old White Cottage and along the northerly side of Little Lane (the lane), which is initially narrow and without a footway. For some considerable length, the narrow lane is bounded by a tall wall on the southerly side, after which the lane widens and is largely of a rough surface. There are a number of properties confined to the southerly side of the lane, sited at a higher level than the appeal site and Old White Cottage. The lane forms part of a public footpath connecting Desford to the open countryside.
14. The evidence before me indicates that the significance of the CA stems in part from its agricultural origins and topography, identified by views of open countryside between buildings, and the preponderance of woodland trees within and adjacent to the settlement. The appeal site appears as an area of woodland with established hedgerows along its south-eastern and north-eastern boundaries and it falls away from the higher sited properties along the lane. Due to its location and wooded appearance, the appeal site forms part of the wooded setting of the CA and therefore makes an important contribution not only to its setting, but also to its significance. The amenity value of the woodland nature of the site is reflected in the presence of a woodland tree protection order.
15. Drawing all the above together, the appeal site forms part of a green and largely undeveloped route to and from the settlement of Desford, despite the presence of properties along the opposite side of the lane, which are at a higher level and within the settlement boundary and the CA. Consequently, the appeal site makes a strong and positive contribution to the character and appearance of the area and the open countryside; and the wooded setting of the CA, which forms a key characteristic of its significance.
16. The proposed split-level dwelling would be sited near to, but set back from Old White Cottage, and set into the falling topography, with access farther along the lane. The proposal would include the removal of four trees, one group and two part-groups. Most trees proposed for removal are of low quality and value. However, some are category B trees of moderate value and are proposed for removal to facilitate the development and to create open garden space. Further works are proposed to trees of moderate value, including crown lifting of trees adjacent to the proposed dwelling, parking and construction works in order to provide clearance and accidental damage. These category B trees would have a reasonable life expectancy.
17. Taken together, the extent of tree removal and further tree works to accommodate and/or facilitate the development is therefore significant, and there is little before me to demonstrate any compensatory planting. Even if tree removal is largely located within the site as opposed to at the frontage to the lane, the proposal would diminish the collective amenity value of the trees as a woodland.
18. In order to achieve required parking space dimensions, the Council advises that a further metre of hardstanding would be necessary, and this is not disputed by the appellant. This could result in further encroachment into root protection areas and/or further works to trees. In addition, it is by no means certain that future occupation of the site would not result in further pressure to prune or fell retained

trees, given the proximity of the proposed dwelling and its associated amenity space, garden area and hardstanding to a category B group and other tree cover.

19. The proposal would result in the extension of built form along a hitherto undeveloped part of the lane, and it would be a form of ribbon development in open countryside, in conflict with SADMP Policy DM4. While the siting of the proposed dwelling seeks to respond to the wooded nature of the site, it would be well set back from the lane and the building line of Old White Cottage, in conflict with the Council's supplementary planning document: Good Design Guide 2019 (SPD). Views of the proposed dwelling would be restricted to some degree due to its siting, split-level nature and the retention of trees and hedgerows. However, the associated hardstanding areas including driveway and turning area would result in a residential appearance to the site, which would otherwise be open countryside.
20. The appellant draws my attention to the siting and scale of other properties on the opposite side of the lane, including Orchard Cottage. However, this side of the lane is part of the established settlement. While I have been provided with a layout plan and elevation drawing of this property and I saw it during my visit, the detailed circumstances which led to its construction are not fully before me. It seems to me that this land would form infill development between adjacent properties, and thus it would not form ribbon development, unlike the proposal before me.
21. Overall, the proposal would adversely affect the wooded character and appearance of the site. The green and rural approach to and from the village would be diminished by the proposal; and the wooded setting of the CA would be eroded. The proposal would therefore significantly undermine the positive contribution the appeal site makes to the wooded setting of the CA, which is a key characteristic of its significance.
22. The Framework sets out that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Further, that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.
23. In accordance with paragraph 215 of the Framework, I am required to balance this harm against the public benefits of the proposal including, where appropriate, securing its optimum viable use. I find the harm to be 'less than substantial' in this instance, and moderate in that spectrum, given that the wooded setting of the CA is a key characteristic of its significance, and due to the set-back siting of the proposed dwelling.
24. Although no heritage benefits are put forward, the proposal would assist in meeting the Government's objectives to significantly boost the supply of land for homes and a self-build unit would widen housing choice, if suitably secured. Temporary economic benefits would arise during the construction phase with permanent benefits thereafter arising from household expenditure. These benefits would be limited by the scale of the development. While the appellant suggests the proposed dwelling would implement sustainable building methods and materials, this is not robustly demonstrated. I note that the plans show an indicative location

for an air source heat pump and photovoltaic panels, together with an EV charging point. However, these are policy requirements of development, rather than a benefit. It is unclear how any additional tax receipts would be used to benefit the public.

25. Collectively I attach moderate weight to the benefits of the proposal. However, such benefits would not outweigh the harm that I have found to the setting and significance of the CA, to which I am required to attach great weight.
26. For the reasons above, I conclude that the proposal would harm the character and appearance of the area and the open countryside; the setting and significance of the Desford Conservation Area; and protected trees. The proposal conflicts with SADMP Policies DM4, DM10, DM11 and DM12; and Policy H7 of the Desford Neighbourhood Plan 2021. Taken together and among other things, these policies seek to ensure that the intrinsic value, beauty and open character of the countryside; that the historic environment is protected; that development respects the character and appearance of the area; that the significance of conservation areas is preserved and enhanced; and that development proposals satisfy certain design principles. I attach significant weight to this conflict.

Living conditions

27. Due to its siting and internal layout, bedroom No 2 of the proposed dwelling would be about 1.7m to the boundary with Old White Cottage. This short distance would not provide a satisfactory outlook for future occupiers. The appellant suggests that the primary use of the room would be for sleeping. However, this does not set aside the fact that bedrooms are used for other purposes, including study and play for children
28. The proposed kitchen to the ground floor would fall to be considered as a habitable room in the SPD. Its principal window would face the two-storey angled wing of the proposed dwelling, with a separation distance of about 5m. The Council relies on separation distances between neighbouring properties in the SPD to assess this distance and accepts that the view would not be of a blank elevation. In such circumstances, it seems to me that the SPD separation distance of about 14m is not relevant in this context, as the angled elevation would permit other wider angles of view towards the northerly boundary of the site. Consequently, this aspect of the proposal would provide an acceptable outlook.
29. Due to the scale, siting and layout of the proposed dwelling, the only window serving bedroom No 3 would be close to a retained tree group. The only window serving bedroom No would be close to a retained tree. Consequently, due the presence of these retained trees, which are of a considerable height and spread, bedrooms 1 and 3 would not receive acceptable levels of daylight and sunlight.
30. The Council advises that the SPD requires a three-bedroomed dwelling to provide a minimum of 80m² of private outdoor amenity space with a minimum length of 7m. A proposed hard surface amenity space is given to be greater than 7m length, but with an area of 66.7m², it would fall short of the garden size as set out in the SPD. However, the SPD concerns a guideline for garden sizes and states that this could vary dependent on design so as not to preclude innovation. The proposed dwelling is not advanced on the grounds of innovation.

31. It seems to me the hard surface area would function as a courtyard/patio space between the two wings of the proposed dwelling, while the remaining area of the plot would function as a woodland garden, albeit limited in useability terms by the presence of retained trees. In quantitative terms therefore, I find that the SPD's guideline would likely be met across the plot. However, due to the two-storey element of the proposed dwelling being towards the south and west, together with the extensive tree cover within the site, there would be limited levels of daylight and sunlight to the amenity space in the courtyard area and within the wider plot.
32. The appellant considers that the above matters arise as a consequence of minimising the intrusion into the natural elements of the site. I appreciate that the scheme seeks to work with the wooded nature and topography of the site. However, of itself, the presence of natural elements is not a sufficient justification to set aside adequate living conditions for future occupiers for their health and well-being. This would conflict with paragraph 135 of the Framework, which seeks to ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.
33. I share the Council's concern that the extent and proximity of retained protected trees in relation to the proposed dwelling could result in further pressure to prune or fell such protected trees. I also accept that permission for any such works should be sought from the Council. However, such works would likely be at the expense of the wooded setting of the CA, as referenced in my first main issue.
34. For the reasons above, I conclude that the proposal would result in unacceptable living conditions for future occupiers with particular regard to outlook; levels of daylight and sunlight; and private amenity space. It conflicts with SADMP Policy DM10, which seeks to ensure that new development fully considers the amenity of future occupiers, and the objectives of the Framework to achieve well-designed places for future users. I attach significant weight to this conflict.

Other Matters

35. The dwelling is proposed as a self-build project. The Council accepts that its supply of self-build and custom build units is such that its statutory duties are not being met, with a shortfall of 5 units. Further, the Council advises that in the absence of a suitable mechanism in the form of a unilateral undertaking, a self-build unit is not secured. The Council draws my attention to two appeal decisions² in this regard, each for a different local planning authority. The appellant does not dispute these matters, nor the findings of the Inspectors in the submitted appeal decisions. In the absence of any compelling evidence to the contrary, I find no reason to disagree with those Inspector's findings. Consequently, in the absence of a suitable mechanism, the benefit of a self-build unit is no more than limited.
36. I have had regard to objections which express a range of concerns including, but not limited to the following: privacy, highway safety, and wildlife. However, I note that these matters were considered where relevant by the Council when it determined the planning application. Whilst I can understand the concerns of the interested parties, there is no compelling evidence before me that would lead me to come to a different conclusion to the Council on these matters.

² APP/G2435/W/23/3330838 and APP/F2415/W/24/3338486

Planning Balance and Conclusion

37. The Council's evidence indicates that following publication of the revised Framework, it is unlikely to be able to demonstrate a five-year supply of deliverable housing sites. The main parties agree that paragraph 11 d) of the Framework is engaged, even though neither party has provided detail as to the extent of any shortfall in housing supply. The Council has set out its position on the presumption in favour of sustainable development to the appeal, and although the appellant has had an opportunity to make final comments, no comments were made.
38. In accordance with footnote 7 and paragraph 11 d) i of the Framework, the policies of the Framework that protect designated heritage assets are a strong reason to refuse the proposal. Furthermore, the Desford Neighbourhood Plan includes policies and allocations to meet its identified housing requirement, and the plan was made in May 2021, which is less than 5 years ago. In such circumstances, the Framework makes clear that the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits.
39. Even if the shortfall in the Council's five-year supply of deliverable housing sites were to be extensive, it would not alter my finding that the presumption in favour of sustainable development does not apply in this case. Consequently, I have not found it necessary to seek detailed information on the extent of any shortfall, as it would not alter my decision.
40. For the reasons above, I conclude that 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, the appeal is dismissed.

J Moore

INSPECTOR