
Appeal Decision

Inquiry opened on 12 January 2016

Site visit made on 21 January 2016

by Paul K Jackson B Arch (Hons) RIBA

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 21 March 2016

Appeal Ref: APP/M1005/W/15/3006136

Land north of Inns Lane, South Wingfield, Derbyshire

- 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 Gladman Developments Ltd against the decision of Amber Valley Borough Council.
 - The application Ref AVA/2014/0980, dated 29 October 2014, was refused by notice dated 2 February 2015.
 - The development proposed comprises up to 70 dwellings with associated open space and landscaping with all matters reserved except for access.
-

Preliminary matters

1. The Inquiry sat for 6 days. A site visit was carried out on 21 January 2016.
2. Prior to the Inquiry, the appellant supplied a revised indicative Development Framework plan ref M2381.07S dated December 2015. This shows a different preferred western edge to built development, meeting Inns Lane at a more easterly point. This does not prejudice the interests of any party and I have considered the appeal on this basis.
3. At the Inquiry, a further statement of common ground¹ between the appellant and the Council was provided covering housing land supply in Amber Valley Borough. The parties agree that on 11 January 2016 there was a housing land supply of between 3.5 and 3.53 years, indicating a shortfall of between 1484 and 1527 dwellings. I have taken this into account.

Decision

4. The appeal is dismissed.

Application for costs

5. At the Inquiry an application for a partial award of costs was made by Gladman Developments Ltd against Amber Valley Borough Council. This application is the subject of a separate Decision.

Main Issues

6. The Council acknowledged that in the light of the shortfall in housing land, some development in rural areas will be essential. Reasons for refusal 3 and 4, concerning development in the countryside and outside built settlements, were

¹ Doc 1

not defended at the inquiry. With regard to archaeological impacts, subject of reason for refusal 8, no case was offered by the Council. Many local residents express concerns about the effect on landscape character and this matter was also raised by the Council in June 2015 as an additional concern. Accordingly, the main issues are as follows:

- Whether the proposed development would preserve or enhance the character or appearance of the South Wingfield Conservation Area;
- The effect on the setting and heritage significance of Wingfield Manor, a Grade I listed building and scheduled ancient monument (SAM);
- The effect on the character and appearance of the surrounding area; and
- The sustainability of the chosen location, in terms of matters including infrastructure and services, highways, public transport and the undeveloped nature of the site.

The site and its surroundings

7. South Wingfield is a village surrounded by countryside, just under 5 kilometres (km) west of the town of Alfreton. The site consists of 2 fields north of Inns Lane, an undesignated road which links the village to Matlock via Moorwood, Wheatcroft and Plaistow to the west. Field 1 adjoins the road and field 2 lies behind the gardens of existing houses on the north side of Inns Lane. Access to the site would be from a new turnout onto Inns Lane and the arrangement of dwellings and roads within the site is reserved for future consideration. The westernmost part of the site is shown as open space on the development framework drawing with screening or 'mitigation' planting between it and the proposed houses. The development would also include a play area and a drainage pond, intended to form part of a sustainable drainage system.
8. South Wingfield sits on a ridge in a rolling and undulating landscape that gradually rises to the west. A much higher ridge line (about 100 metres (m) higher than South Wingfield) is conspicuous just over 3.5 km away and is a prominent landscape feature seen from the appeal site. The surrounding countryside is mixed arable and pastoral land with generally small fields and prominent hedgerows with trees.
9. Wingfield Manor, a ruined 15th century palatial medieval Manor House, lies about 900m south of the centre of the village on a conspicuous rocky outcrop with extensive views in all directions. It is arranged round a pair of courtyards with an undercrofted Great Hall and a 22m high tower. Numerous chimney stacks and other towers rise above the substantial walls. It was originally the home of Ralph, Lord Cromwell, Treasurer of the Exchequer; subsequently prison accommodation for Mary, Queen of Scots, three times; and the site of English Civil War sieges twice. The South Wingfield Conservation Area encompasses the Manor and its immediate surroundings together with the central part of the village, the church and corn mill in the Amber Valley to the east. All the built development in Inns Lane is also included.

Planning policy

10. The development plan for the area consists of saved policies of the Amber Valley Local Plan (LP) adopted on 12 April 2006. The relevant objectives of

policy LS1 are as follows: proposals for development should be located taking account of the following sustainability criteria by:

- a) being well-related to existing patterns of development;
- b) re-using previously developed land and buildings in preference to greenfield sites, except where circumstances such as location or accessibility preclude their use;
- c) protecting and enhancing the quality of the built and natural environment; and
- d) minimising the need to travel between home, work and other activities and providing opportunities for journeys other than by car.

The National Planning Policy Framework (NPPF) advises at paragraph 215 that saved policies of the LP can be afforded due weight according to their degree of consistency with policies of the NPPF. Despite its age, policy LS1 is in line with the thrust of the NPPF and attracts considerable weight.

11. Whilst not specifically mentioned in the reasons for refusal, LP policy LS3 requires development proposals to reflect the principles of good design by respecting the character of the locality in terms of scale and nature of development amongst other things. This aim is not inconsistent with the design quality objectives of the NPPF.
12. Policies EN7, EN8 and EN9 are considered to be relevant by the parties in the Statement of Common Ground (SOCG). Their general aim is to ensure that development is sympathetic to the landscape. In particular, EN7 requires that the design of development is appropriate to the landscape character type, having regard to factors including landform and natural drainage patterns; the pattern and composition of trees, woodlands and field boundaries; the type and distribution of wildlife habitats; the pattern and distribution of settlements and roads; the presence and pattern of historic landscape features; and the scale, layout, design and detailing of local buildings and other traditional man made features.
13. In respect of heritage assets, 2 policies are relevant. Policy EN24 advises that proposals for new buildings within the setting of a listed building will only be permitted where the proposals contribute to the preservation of the listed building and its setting, having regard to the elements which make up its special interest, including the character, appearance, scale and its original function. In similar vein, policy EN27 states that planning permission will only be granted for development proposals within and adjacent to conservation areas if they would contribute to the preservation or enhancement of the conservation area. Special consideration will also be given to proposals for development adjacent to and affecting the setting of a conservation area. The wording of these 2 policies is inconsistent with the overall aims of paragraphs 132-134 of the NPPF which indicate that a balance applies; great weight should be given to the conservation of designated heritage assets and that where harm is identified that is less than substantial, the harm should be weighed against the public benefits. It is not disputed that the effect on the significance of heritage assets in this case would be 'less than substantial'.
14. The emerging Amber Valley Local Plan Part 1 Core Strategy (CS) was submitted to the Secretary of State in December 2013, but the examination

was suspended following concerns about additional work required on a joint sustainability appraisal of the planned housing apportionment between Amber Valley and 2 other local authorities. There is no further timetable agreed for the production of the CS and due to the scale of outstanding and unresolved objections, only very limited weight can be ascribed to it. However, the process of examination has helped to clarify a shortage of housing land, now acknowledged by the Council. The Local Plan Inspector suggested that the Council should look for sites in a slightly wider range of locations (than the four main settlements of Alferton, Belper, Heanor and Ripley); it is as a result of this that the Council agrees that it is inevitable that some areas of greenfield land will have to be allocated.

15. A Neighbourhood Plan has been initiated by residents of South Wingfield but this has not reached a stage at which it can be given any weight.
16. The NPPF defines the setting of a heritage asset as the surroundings in which it is experienced. The extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset; may affect the ability to appreciate that significance; or may be neutral.
17. English Heritage (now Historic England) (HE) guidance indicates that setting embraces all of the surroundings from which an asset can be experienced or that can be experienced from or within the asset. Setting does not have a fixed boundary and cannot be defined, in perpetuity, as a spatially bounded area or as lying within a set distance of a heritage asset. The NPPF says that the significance of an asset is defined as its value to this and future generations because of its heritage interest. That interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting. Heritage significance can be harmed through development within setting.
18. In accordance with the statutory duty set out in section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA), special regard must be paid to the desirability of preserving listed buildings or their settings or any features of special architectural or historic interest which they may possess. The preservation of setting is to be treated as a desired or sought-after objective, and considerable importance and weight attaches to the desirability of preserving the setting of listed buildings when weighing this factor in the balance.
19. As required by section 72(1) of the LBCA, special attention must also be given, with respect to any buildings or other land in a CA, to the desirability of preserving or enhancing the character or appearance of that area. The application site is not within any CA but the proposed development would be visible in views towards, from and around Haddenham CA and forms part of its setting. Paragraph 132 of the NPPF indicates that significance can be harmed or lost through alteration or destruction of a heritage asset or development within its setting.
20. Planning Practice Guidance is relevant. The section entitled 'Conserving and enhancing the historic environment'² says, amongst other things, that a good conservation area appraisal will consider what features make a positive or

² Doc 6

negative contribution to the significance of the conservation area, thereby identifying opportunities for beneficial change or the need for planning protection³.

Reasons

The effect on the conservation area

21. The site lies outside the conservation area on its western edge. A character statement for South Wingfield Conservation Area was published in 1996. Whilst not in the form of a full appraisal that would be appropriate had it been prepared in 2016, the area has not changed a great deal since then and the document forms a helpful guide. The architectural and historic interest of the central part of the village stems primarily from its association with Wingfield Manor and the variety of its stone buildings which are erected on an ancient route. The village was later to become an important coaching stop in the 18th century. Grade II listed buildings at the centre of the village on the corner of Inns Lane and High Road are too far away from the site to be affected by the proposal, but these buildings do set the tone for Inns Lane itself, which provides distant views of open countryside.
22. The latest guidance from HE, *The Setting of Heritage Assets* of March 2015 provides a list of factors that are useful in elucidating the implications of development for the significance of heritage assets. In respect of character, it says *'The character of a historic place is the sum of all its attributes, which may include: its relationships with people, now and through time; its visual aspects; and the features, materials, and spaces associated with its history, including its original configuration and subsequent losses and changes. Heritage assets and their settings contribute to character but it is a broader concept, often used in relation to entire historic areas and landscapes'*. Under the general heading *'Assessment step 3: assessing the effect of the proposed development'* a check-list of the potential attributes of a development affecting setting is set out including such factors such as position in relation to landform; prominence, dominance, or conspicuousness; and competition with or distraction from the asset.
23. The character statement explains that there are 3 areas of later housing in South Wingfield to the north, east and west. Developments of 20th century housing along Wessington Lane and Birches Lane to the north, and Parks Avenue to the east, are physically separated from the much older central 'spine' of the village. Inns Lane is the third area but this is much more varied than the other two and includes 19th century terraced housing close to the Old Market Place and listed buildings and at other locations, as well as a mixture of bungalows and houses built more recently. The justification given for including Inns Lane in the conservation area is that it *'reflects its location on a historic routeway and the desire for the enhancement of this area in future years'*. The statement also records that the majority of the buildings in the road are of little distinction but *'provide a contrast with the beautiful surrounding landscape'*.
24. On their merits, the mixed late 19th century and 20th century age and appearance of dwellings in Inns Lane (certainly beyond No. 23) do not contribute a great deal of special interest to the conservation area. However their location near the centre and (as explained at the Inquiry) being built on

³ ID 18a-025-20140306

some of the medieval crofts associated with buildings on Manor Road and High Road mean that it is right that future development in Inns Lane should be carried out with a view to enhancement. Recent sympathetic housing development opposite No. 1 indicates the importance of this aim. Moreover, the previous use of fields west of the High Road and Manor Road as crofts associated with dwellings in the village means that they contribute to an extent to the heritage significance of the conservation area. The original western boundary of the crofts is still extant. It was apparent at the Inquiry that recent research has revealed more about the medieval development of South Wingfield.

25. The conservation area boundary follows the rear of the gardens of houses on the north side of Inns Lane (which is also the appeal site boundary, field 2) and on the south side follows the line of the crofts including a working farmyard. It is important that the view to open countryside along Inns Lane is not compromised, and by means of setting back built development on field 1 as shown on the indicative framework drawing, this could be achieved. The impact on heritage interest in Inns Lane would be insignificant. The character of the conservation area looking westwards would therefore be preserved by the proposal.
26. It is a different matter approaching the village from Inns Lane and from footpaths⁴ in an easterly direction. Descending the slope from the White Hart Inn, the Manor becomes visible first as a clear feature on the southern horizon. For reasons explained above, the conservation area should be seen as a whole; the village and Manor are intrinsically connected. The lane dips before ascending into South Wingfield and the roofs and gable end walls of the first buildings in Inns Lane appear low and subdued. However the appeal site has a distinct ridge in field 1 which makes it prominent in easterly views, rising from about 118/120m AOD in the south east and south west corners to around 128m AOD. The proposed 2 storey housing would follow this ridge and although gardens and planting would mitigate the visual impact to some extent, I consider that it would form a new line of conspicuous built development starkly out of keeping with the historical layout of the village, which flows out in a much more small scale, intermittent way from the hill behind. The proposed scheme would form a highly visible new 'block' and would not 'soften' the edge of the village but impose a discordant assertive feature that would jar noticeably with the settlement and its setting. It is a fact that other unsympathetic 20th century schemes have taken place but those are not seen in the same view as the Manor and do not adjoin the older part of the village in the same way as this scheme would. In any event, even if they were more visible, older precedents do not provide a reason to cause further harm.
27. I conclude on this issue that the South Wingfield Conservation Area extends into surrounding countryside to encompass Wingfield Manor, all built development in Inns Lane and old medieval crofts south of Inns Lane. Its setting includes surrounding countryside in addition including the fields comprising the appeal site. Existing unremarkable development in Wessington Lane does not significantly detract from its setting and that in Parks Avenue is much lower and cannot be seen from the west side where the site is located. The land west of the village falls naturally into a dip which describes the ends

⁴ Designated SWFP 8 and 9

of the crofts⁵. By extending beyond this line up onto a conspicuous natural ridge well outside existing development, the scheme would create a distracting and intrusive built form which would noticeably compromise the character and appearance of the conservation area. Having said that, the harm caused would be 'less than substantial' and as such must be carried forward in the balance with the scheme's public benefits.

Wingfield Manor

28. Wingfield Manor has the highest status as a listed building. The relative lack of public access (once a month by prior appointment, during the summer) does not lessen its heritage significance. The dispute at the Inquiry revolved around the extent to which its setting contributes to that significance. There is no dispute that the Manor was constructed in order to demonstrate power and influence. It is a conspicuous landmark seen from surrounding land and extensive 360 degree views are obtained from the High Tower (the only one which the public may access). Its setting extends for a considerable distance and certainly includes the appeal site, which is clearly visible from the tower, the flank and from parts of the 'privy garden'. I agree with HE when it states that the Manor derives significance from its historic setting in largely open rural surroundings, which can still be readily appreciated and understood. There is insufficient evidence to show whether the appeal site was positively included in the extent of a surrounding deer park, but the earlier existence of a large area for game hunting is not in question. The progress of a hunt would have been observed from one or more of the towers. Conversely, the Manor forms a conspicuous focal point in southerly views from the appeal site.
29. The extent of the deer park is now hard to perceive from the Manor because of later enclosure and farming activity. Nevertheless the purpose of the towers for viewing hunting activity and looking out over the estate is established. An understanding of the purpose and history of the building and its nearby landscape must include an appreciation of its influence and the activities of its occupants. That would include hunting and farming and awareness of South Wingfield beneath the Manor, the home of the serfs that made running the estate possible. Consequently, the existing condition of the surrounding land, which is notably free of development, let alone modern development- and remarkably free of any built settlement apart from South Wingfield- contributes a great deal to understanding its historical significance. The proposed development would eventually have some garden trees and vegetation to soften its appearance, but it would still be an obvious eye-catching estate type scheme, projecting out from the western edge of South Wingfield into countryside that has never been developed. At a distance of about 800m, it would be well within the immediate setting of the Manor.
30. The 1950s Parks Avenue scheme is on much lower land and does not detract from the impression that the old part of South Wingfield is set upon its own area of high ground. A new single dwelling within the walled garden of Wingfield Hall between the Manor and South Wingfield is conspicuously up to date. However these are the only two visible elements that indicate that time has moved on, in a remarkably unchanged landscape setting around the Manor. Whilst occupying only a small proportion of the overall view, the development would be readily visible as a modern block extension well away

⁵ Particularly appreciated from the 1845 Tithe Map (Mr Folland's M2381 Figure 2)

from the centre of South Wingfield. This would draw attention and diminish the experience of the setting and historical significance of the Manor as it is experienced by visitors.

31. Turning to how the setting of the Manor is perceived from surrounding countryside, it forms a dominant, intriguing and somewhat romantic structure high and on its own, surrounded by trees. Footpaths SWFP8 (part) and SWFP9 approach the appeal site in a south easterly direction and provide some of the best publicly accessible views approaching the Manor which are not affected by modern road traffic or urban intrusion. The experience of the setting of the Manor here would be seriously compromised by the new housing because it would be close by and conspicuous on raised ground. The relocation of the edge of development in the most recent Development Framework plan only marginally reduces this impact.
32. The level of harm would be 'less than substantial' in terms of the NPPF but significant importance and weight attaches to it in the balance.

Character and appearance of the area

33. The effect on the character and appearance of the area is distinct from that considered above with respect to the heritage significance of the conservation area. It mainly concerns the character of the landscape and the visual impact as perceived by local occupiers, workers, visitors and recreational users. South Wingfield lies in the *Derbyshire Peak Fringe and Lower Derwent* National Landscape Character Area No. 50 (NCA). The NCA gradually rises from east to west forming the foothills to the Peak District. Within it lie 6 Landscape Character Types (LCTs); the predominant LCT including the appeal site is *Wooded Slopes and Valleys*. Key characteristics of this LCT include upland; undulating ground rising up to moorland; permanent pasture for sheep and cattle; densely scattered small to medium ancient woodlands and secondary woodland on steeper slopes and along streams; densely scattered hedgerow trees; an irregular field pattern bounded by mixed species hedgerows; a network of winding lanes, sunken on steeper slopes, with rocky banks; and dispersed sandstone farmsteads with stone slate roofs. It was common ground at the Inquiry that in the LCT assessment, the built evidence of human occupation in the form of stone villages is curiously absent and that they are also a key characteristic. Moreover, there is a working farm off Inns Lane and another, Lane Farm, off High Road; the village itself is intrinsically associated with working the land. Historical features such as Wingfield Manor are also worthy of being a key characteristic locally.
34. The undulating but gently rising landscape between South Wingfield and the village of Crich on the ridge to the west is of small scale farmland with ancient hedgerows and much tree cover. It is not designated, but in the appellant's Landscape and Visual Impact Assessment (LVIA) is acknowledged to be attractive. South Wingfield appears to merge into the surrounding countryside, assisted by the individual nature of the dwellings, the field boundaries at right angles to High Road and Manor Road; and the farming activity. Field 1 of the application site lies distinctly outside the settlement edge, with only a short boundary with one property at the end of existing development in Inns Lane. In terms of landform, the obvious rise in levels sets it apart and it also lies outside the ancient western croft boundary. Field 2, on the other hand, is land originally associated with houses in the village, is bounded by the rear gardens

- of 9 dwellings and is close to the buildings of Lanes Farm. I find therefore that in terms of sensitivity to the kind of changes proposed, field 1 is poorly related to the settlement edge and has considerably greater landscape value than field 2. Field 1 is also four times the size of field 2. I therefore disagree with the assessment in the LVIA of an overall low level of susceptibility to new residential development, particularly when the proposed scheme seeks to reflect the density and grain of the older parts of the village. That would appear at odds with the open rural character of field 1.
35. Using the assessment methodology in the LVIA, I consider that the significance of potential effects would be substantially raised, to major/moderate adverse in respect of the landscape character of the application site. The effect on the surrounding landscape has also been underestimated because of the relative prominence of the site.
36. Turning to visual impact, the significant number of public rights of way in the area, mainly footpaths, is acknowledged in the LVIA. The views experienced are generally of an attractive agricultural landscape. As part of that, South Wingfield is a rural village with agricultural origins and is associated with an important and dominant Manor house. It is not an urban settlement; in fact it would be hard to find a dwelling within it that does not back onto open fields. The appeal scheme would fundamentally alter this aspect of character by introducing a conspicuous estate type development on its western edge. Moreover, the appellant's viewpoints (VP) and photomontages demonstrate the extent to which built development would change perception of South Wingfield in an arc from the north west round to the south of Inns Lane. The dwellings would be 2 storey and would be particularly prominent in field 2 and on the raised ground in field 1. In table 2 of the LVIA, I consider that the magnitude of the effect and the significance of effect are consistently underestimated. For instance, considering VP3, the extension of the built form of South Wingfield would be much more than 'slightly more extensive'; the photomontage shows that new development would all but conceal any existing visible built form in the village. No mention of the contribution to the character of the Manor is made, though this is acknowledged to be an important feature from this direction. Similarly, exiting the village on SWFP8 from VP 4, the extent of new buildings in field 2 would largely obscure views of the countryside beyond; the boundary hedge would do little to limit the visual impact of new 2 storey housing.
37. On the south side, the extension to existing built form would be apparent on the skyline from VP 7 on SWFP10 looking north. SWFP11 runs parallel to the B5035 Garner Road and descends into the valley of the Boggy Brook. The Manor is to the south and is closer but less apparent in views of South Wingfield from this direction. Field 1 of the appeal site is conspicuous on the west side of the settlement from many points on this route and is also framed in an otherwise undeveloped view from a well used layby on the B5035 (not a VP in the LVIA). Table 2 fairly assesses the impact from VP 9 as moderate/major adverse, but only moderate/minor adverse from VP 10 at the intersection with SWFP12; yet from here, the observer would be higher up with a view over roofs and buildings in both fields 1 and 2, framed by trees. This is a significant underestimate.
38. Considerable reliance is placed on screening in hedgerows, gardens and on open space areas of the site but this should not be overlaid. Future

occupiers are likely to want to open up and benefit from the exceptional views of the countryside leading up the Crich ridge to the west and the Manor to the south. Whilst a degree of screening may be possible in the open space, it could not be effective without being quite dense and out of character with the surrounding landscape.

39. The scheme is in outline which prevents detailed consideration of the final architectural design and form of the dwellings. It is accepted that materials could be chosen for walls and roofs to be sympathetic to those predominant in the village and general area, but this cannot mitigate the bulk of built form in principle. The existence in the view of so much new housing in such an extensive block would be apparent. I have had regard to the existence of a timber planter on the approach to the village outside the site along Inns Lane together with a footpath and simple railings, but these do not significantly contribute to a sense of urbanisation.
40. I conclude on this matter that the appeal proposal would not be well-related to the existing pattern of development in South Wingfield and by its nature would fail to take account of the intrinsic character and beauty of the countryside, conflicting with the relevant parts of LP policies LS1 and LS3 and a core principle of the NPPF⁶.

The sustainability of the development

41. The NPPF says at paragraph 7 that sustainability has 3 dimensions: economic, social and environmental, each of which is mutually interdependent. Paragraph 10 says that plans and decisions need to take local circumstances into account, so that they respond to the different opportunities for achieving sustainable development in different areas.
42. South Wingfield is defined in the LP as one of the larger villages. There is no sequential hierarchy of preferable locations for new housing in Amber Valley Borough. The 4 large towns and the larger villages provide the most sustainable locations where there is the greatest concentration of employment, shopping and community facilities. In such places it is reasonable to assume that there is potential for delivery of some land for new housing when the Council prepares a new assessment.
43. South Wingfield has many of the facilities people would need for their day to day needs, including a primary school, a doctor's surgery and dispensary, a general store, pubs, churches and clubs and other amenities, all of which would be within walking distance of the appeal site. However it is noticeably less well provided for than Crich, where another housing scheme has been allowed recently⁷; which has a far greater range of shops including a post office. On the other hand, South Wingfield is physically closer to a main centre for shopping and employment at Alfreton. The village is also linked via the B5035 to Crich, Alfreton and Belper; and to Matlock via the A615. It has bus services to all these destinations (and others further afield by means of changing) albeit limited in frequency and evening and weekend provision. The main bus service is the 140/142 serving Alfreton, Crich and Belper with a 2 hour frequency. Railway stations at Alfreton, Whatstandwell, Ambergate, and Matlock are

⁶ This says that planning should 'Take account of the different roles and character of different areas,..... recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it'

⁷ Appeal ref APP/M1005/A/14/2226553

accessible by bus, Alfreton being the most convenient. I accept that the lack of bus services in the evenings and the need to change on some routes would deter social contact outside the village for those without private transport. I heard that on occasion, local people have had to walk back from Alfreton for instance, if a train is late or a bus is not running. In view of the public transport constraints, the majority of people in South Wingfield travel to work and for social and domestic purposes by car. However the evidence suggests that that is also true for Amber Valley generally and this was not seriously questioned.

44. Government policy is to encourage the use of sustainable transport, but this is not a reason, on its own, to refuse permission for new housing in areas which have limited public transport; each case has to be decided on its own merits. Nor can the potential for new pupils from this scheme to displace others from outside South Wingfield currently attending the local school be a compelling reason to prevent development that provides needed new housing; such situations occur frequently and are managed by the education authorities.
45. Paragraph 55 of the NPPF says that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. The proposed development would help to support local businesses and facilities in South Wingfield by bringing new families and funds into the local community. It is likely that the mix of dwellings, which would be under the control of the Council, would help to rebalance the age profile of the village. Moreover, new residents would increase the demand for better public transport; the important point is that it is available.
46. Whilst the concerns of local residents are understood, there is nothing to indicate that the impact on the local environment of traffic from the proposed development would be unacceptable in sustainability terms. The proposed Travel Plan would help to a degree in encouraging new occupiers to pursue sustainable transport options. I conclude on this issue that in South Wingfield, there is little reason to suggest that further housing of the modest scale suggested here, would have unacceptable impacts on the ability of future generations to meet their own needs. The scheme would not conflict with the economic or social sustainability aims of LP policy LS1 or the NPPF.

Other matters

47. A S106 Unilateral Undertaking (UU) has been submitted. This aims to facilitate the provision of management and maintenance of the open space associated with the development; the provision of affordable housing; and contributions towards a Travel Plan, education and waste management. I have had regard to the concerns of the Council that the important affordable housing aims might not actually be realisable because the Registered Provider is not a party to the undertaking. However, if I were otherwise minded to allow the appeal, a negatively worded planning condition requiring a scheme for affordable housing would provide sufficient assurance⁸. With that proviso, I consider that the provisions of the UU are directly related to the proposed development, fairly and reasonably related in scale and kind, and would be necessary to make it acceptable. They meet the tests set out in Paragraph 204 of the NPPF and Regulation 122 of the Community Infrastructure Levy Regulations (2010).

⁸ As used by the Secretary of State in APP/A0665/A/11/2167430, and having regard to PPG at reference ID: 21a-010-20140306

Following a discussion at the Inquiry, there is no suggestion that more than 5 payments have been made to any of the objectives set out and I conclude that the requirements of Regulation 123 and Planning Policy Guidance (PPG) have also been satisfied. As such I give the UU considerable weight.

48. Many local residents are concerned about the potential increased risk to highway safety in Inns Lane and at the junction with Manor Road and High Road. Inns Lane is narrow where it adjoins the junction and is further restricted by parked cars which sometimes obstruct the footway. Single way working results and pedestrians occasionally need to pass by on the road. This is not ideal but is similar to many other village locations where drivers adapt to constrained streets that were not designed for modern vehicles. The offset junction outside the local shop reflects an ancient street layout and suffers from poor sightlines. It is particularly difficult for large commercial vehicles. However there is no record of any accidents more serious than low speed bumps and it is clear that most drivers recognise the hazards and drive with appropriate care. Moreover Derbyshire County Council as the Highway Authority raises no objections. The potential for increased traffic levels as a result of this scheme do not pose such a serious risk to highway safety as to suggest planning permission should be refused.
49. The appellant offers to facilitate a controlled pedestrian crossing in Church Lane for the benefit of children crossing into the primary school. Local residents question the need for this and point out that children are helped to cross the road by a lollipop person in the mornings and afternoons. Church Lane has a footway on only one side of the road that has to be used by those on foot coming from the centre of the village; it follows that everyone has to cross Church Lane. A controlled crossing would improve safety at all times and would be useful for local residents. However it would not be directly related to the proposal and whilst desirable, does not weigh significantly in favour.
50. I have had regard to all the other matters raised including the views of the proposed development from the occupiers of houses and gardens in Inns Lane and the potential for drainage problems to arise. I appreciate that the pleasant rural outlook from a number of properties would change, but there is no right to a view. No-one's residential amenities would be unacceptably affected. There is no evidence that the sustainable drainage scheme proposed by the appellants would have any unacceptable impact on flooding or existing drainage infrastructure.

Conclusion

51. The Council acknowledges that it falls well short of a 5 year housing supply as required by paragraph 47 of the NPPF. Paragraph 49 says that relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a 5 year supply of deliverable housing sites. Where policies are out of date, paragraph 14 of the NPPF says that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or specific policies indicate development should be restricted. In this case there are relevant policies relating to designated heritage assets that have to be considered. Paragraph 129 says that the impact of a proposal on the significance of a heritage asset should be taken into account, in order to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal. This is a restrictive policy.

52. The proposed development would be sustainable in social and economic terms. The scheme would make a significant contribution to housing need in Amber Valley and to affordable housing in particular⁹. Highway safety issues do not weigh against it. The loss of green field land does not in itself count against the scheme. There would be a net improvement in ecological terms.
53. The NPPF advises that the environmental aspect of sustainability includes contributing to protecting and enhancing our natural, built and historic environment; economic and social gains should be sought jointly and simultaneously with environmental improvement. The character and appearance of the South Wingfield Conservation Area would not be preserved or enhanced and the significance of the Grade I listed Wingfield Manor would be diminished through harm to its setting. The level of harm to heritage significance would be 'less than substantial' in terms of the NPPF, but attracts considerable weight and importance in the balance. Moreover, the scheme would be suburban in layout and would extend existing ribbon development in Inns Lane into the countryside in a conspicuous and disproportionate way, in conflict with the pattern of existing development in the village and unduly assertive in its siting. The character and appearance of the area generally would be markedly adversely affected.
54. The benefits of the proposal do not outweigh the less than substantial harm to heritage assets that I have identified. It cannot be concluded that, having regard to the 3 limbs of sustainable development, that, given the harm to the significance of heritage assets and harm to character and appearance, that the proposal would represent sustainable development. These adverse impacts are too high a price to pay; they significantly and demonstrably outweigh the benefits. The appeal must be dismissed.

Paul Jackson

INSPECTOR

⁹ 30% of the development would be affordable housing. An annual supply of 204 affordable units per annum over five years is needed to eradicate the backlog

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Jonathan Mitchell	Of Counsel, instructed by Venice McDonald, Solicitor to the Council
He called	
Paul Wilson PG Dip TP MRTPI	Planning Officer, Amber Valley Borough Council
Deborah Evans BA (Hons)	DE Landscape and Heritage Ltd
MA Cons PGDipLA CMLI	
Melanie Lloyd Morris BA	Mel Morris Conservation
(Hons) DipArch Cons IHBC MRTPI	

FOR THE APPELLANT:

Martin Carter	Of Counsel, instructed by Laurie Lane, Gladman Developments Ltd
He called	
Jason Clemons BA (Hons)	CgMs Consulting
MA MSc MRTPI IHBC	
Nicholas Folland BA (Hons)	Barnes Walker Ltd
DipLA CMLI	
Robert Hindle BSc (Hons)	Rural Solutions Ltd
MRICS	
Nigel Weeks BSc FACE	Stirling Maynard Transportation
Laurie Lane BSc (Hons)	Gladman Developments Ltd
MRTPI	

FOR the SOUTH WINGFIELD ACTION GROUP (SWAG):

James Howlett	Of Counsel, instructed by Loveday Solicitors
He called	
Maxwell Craven MBE FSA	
DLitt AMA	
Geoff Brown B Ed M Ed	Local resident
Andrew Roberts CMLI Dip	Geoplan Ltd
LA BA	
Bettina Lange MA	Bettina Lange Planning and Transport Advice

INTERESTED PERSONS:

Joy Handforth	Local resident
Jane Roach	Local resident
Mrs Anderson	Resident of Highbridge
Paul Harrison	Local resident
Andi Amble	Local resident
Peter Wall	On behalf of David Stone of Wingfield Stores
John Hardwick	Local resident
Nigel Mills MP	
Cllr Valerie Thorpe	Borough Councillor
Philip Smith	Local resident
Joy Greenhaulgh	Local resident
Julian Gawthorpe	Local resident

DOCUMENTS

- 1 Further Statement of Common Ground on Housing Land Supply
- 2 Plan of Crich, showing facilities and bus route, provided by the appellant (requested by the Inspector)
- 3 'Seeing History in the View' advice from Historic England
- 4 A3 copy of Mr Brown's Appendix 1
- 5 Signed S106 Undertaking
- 6 Planning Practice Guidance extract 'Conserving and enhancing the historic environment'
- 7 Corrected viewpoint location plan from Mr Folland, ref Fig 08A
- 8 Statement from Julian Gawthorpe
- 9 Plans showing comparative numbers of properties and registered voter numbers in Crich and South Wingfield, supplied by the Council
- 10 Plan showing relative locations of Roes Lane development and the appeal site, supplied by the Council
- 11 South Wingfield to Ripley Hospital bus route options, submitted by Mr Weeks
- 12 Policies H11 and H12 of the LP, supplied by the Council + a copy of H12, supplied by the appellant
- 13 Statement from Yvonne Billetop
- 14 Statement from John Bowmar
- 15 Statement from Mr A M Thorpe
- 16 Submissions on the S106 Undertaking from the Council
- 17 Response to question from the Inspector, from the County Council regarding pooling restrictions under the CIL Regulations
- 18 Response to question from the Inspector, from the County Council regarding justification for the waste management contribution
- 19 Corrected Chart B from Bettina Lange's evidence, supplied by SWAG
- 20 Suggested Design Code condition
- 21 High Court judgments (1) Jelson CH 1998 J No 1245 (2) Milebush [2010] EWHC 1022 (Ch) submitted by the Council
- 22 Email from Derbyshire County Council concerning justification for the contributions requested.