



Appeal Decision

Hearing held on 22 January 2025

Site visit made on 23 January 2024

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 12 February 2025

Appeal Ref: APP/P1615/W/24/3353011

Land at The Swan, Ledbury Road, Staunton, Gloucestershire GL19 3QA

- 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 The Chamberlayne 2021 Discretionary Trusts against the decision of Forest of Dean District Council.
 - The application reference is P0015/24/OUT.
 - The development proposed is described as the erection of up to 17 dwellings (up to 10 self-build dwellings and 7 affordable dwellings) with associated access, car parking, landscaping, and play area, alongside improvements and external alterations to the Staunton and Corse Community Hub.
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Decision

1. The appeal is allowed, and outline planning permission is granted for the erection of up to 17 dwellings (up to 10 self-build dwellings and 7 affordable dwellings) with associated access, car parking and landscaping, and play area, at Land at the Swan, Ledbury Road, Staunton, Gloucestershire GL19 3QA in accordance with the terms of the application, reference P0015/24/OUT, subject to the conditions set out in the schedule at the end of this decision.

Preliminary Matters

2. The application was made in outline with all matters except access reserved for future consideration. Though I shall therefore treat the submitted plans as indicative, some aspects of the layout and landscaping are nonetheless likely to remain unchanged. This is because they reflect constraints imposed by site drainage, and avoidance, mitigation and enhancement measures required in relation to newts.
3. The description of development includes 'improvements and external alterations to the Staunton and Corse Community Hub', otherwise known as The Swan. Limited details were provided within the application. These works are however fully specified and secured within a submitted Section 106 agreement (S106) which contains provisions to seek any necessary permissions. I have therefore omitted reference to the improvements and external alterations within my decision above, and shall give further consideration to the works in relation to the S106 below.
4. The application was partly refused on the basis that insufficient evidence had been provided in relation to protected species. Following the submission of further survey work with the appeal the Council withdrew its objection insofar

as this related to bats and reptiles, but maintains an objection in relation to newts. I shall consider the latter further below.

5. The Council also partly refused the application on the basis that provision of affordable housing, open/play space, and a contribution towards primary education had not been secured. Following submission of the S106 the Council again withdrew its objection.
6. An application for costs was made by The Chamberlayne 2021 Discretionary Trusts against Forest of Dean District Council at the Hearing. This application is the subject of a separate Decision.

Main Issues

7. The main issues are:

- whether the site is a suitable location for the proposed development having particular regard to (a) its scale and (b) its effect on the character and appearance of the area, including the significance of heritage assets; and
- the effect of the development on great crested newts.

Reasons

Location

(a) Scale

8. Policy CSP4 of the Forest of Dean Core Strategy 2012 (the Core Strategy) sets out the district's spatial strategy. Using settlement boundaries, this seeks to achieve a sustainable distribution of development, focusing new housing on towns. The Core Strategy identifies Staunton and Corse as a service village, where it is envisaged that development will be 'small in scale', comprising single units or pairs. Within this context Policy CSP4 sets out the general requirement for new development to reinforce the settlement pattern, whilst Policy CSP16 contains the expectation that development will be proportionate to the function of the settlement.
9. The site lies outside the settlement boundary, and the development would not meet any exception specified within Policy CSP4. The number of dwellings proposed would be greater than the scale envisaged, and relative to the housing numbers set out within Policies CSP5 and CSP16 of the Core Strategy, Staunton and Corse have already received a disproportionate share of the growth planned.
10. Though housing numbers within the Core Strategy are dated, settlement boundaries were carried forward from an even earlier plan, and the Council's demonstrable supply of deliverable housing sites currently falls below 2 years, the underlying objective of achieving a sustainable distribution of development remains consistent with national policy. However, the Council raised no objection to the scheme on this basis.
11. The site lies adjacent to bus stops and future occupants would have easy access to a good range of services within the village, the vitality of which they would be likely to support through future use. No adverse effect on the function of the settlement or the settlement pattern has been identified, and I have no reason to believe that any would arise. Insofar as there is a need for additional

places at the local primary school, this can be simply addressed through a contribution.

12. Given the lack of any identified harm arising from the scheme's conflict with the above policies, I am satisfied that the development would be acceptable in scale and sustainably located.

(b) Character and appearance

13. The site lies within the countryside for development plan purposes, and within a Locally Valued Landscape (LVL). The latter is principally designated to safeguard the setting of Snig's End/Staunton and Corse Conservation Area (the Conservation Area). Within this context Policy CSP4 sets out the additional expectation for proposals to improve the quality of the environment, including by having special regard for the rural character of the district and any protected environments.
14. The part of the site upon which the proposed development would take place is a small field currently grazed by sheep. This has frontages on Ledbury Road and Gloucester Road either side of The Swan, and rising ground levels provide it with a degree of visual prominence within the streetscene travelling north. At various times in the past the field has been cut for hay and supported an orchard. But though it conveys a modest sense of rurality, given that the field is largely surrounded by development, it is perceived more as a space within the built-up area of the settlement than as part of the wider agricultural landscape.
15. The settlement has developed across a number of phases. The junction between Ledbury Road and Gloucester Road adjacent to The Swan was already established as a minor focal point prior to the 1840s. At that time the Chartist movement purchased large parcels of land within the area which were developed as a series of smallholdings. These were generally set out as long regularly sized rectilinear plots supporting identical bungalows. The most intact parts of the Chartist development form the subject of the Conservation Area designation, which falls within 2 separate parts. These draw significance from the distinctive low density planned character of development, and the insight this provides into both the Chartist movement and the historic social context within which it operated. Neither the site nor development around the junction are included within the Conservation Area boundary, though each form components of the immediate setting.
16. The spatial distribution of Chartist development across the settlement corresponds to that of the parcels of land purchased. Whilst it is thus a product of ownership rather than design, implementation of a standardised plot layout was constrained both by the shape of the parcels purchased, and by pre-existing development. This is apparent to the west of the site where the regular plot layout breaks down. Insofar as the site and the adjacent Chartist plot share an irregular boundary, this would remain the case were the proposed development to proceed. Insofar as the site forms a gap between one parcel of Chartist development and the pre-existing focal point around the junction, this itself appears purely incidental, again simply reflecting the extent of the parcel originally purchased. In neither regard would the adjacent Chartist plot or larger parcel of which it forms part suffer any loss of integrity or identity as a result of the proposed development.

17. Though the gap provided by the site has nonetheless been presented as holding importance in both separating and emphasising 2 phases of development, it is open to question how separate these phases would have appeared in the past when the site hosted an orchard. Given the mingling of Chartist with pre-existing development noted above, the separation of the 2 phases otherwise appears more apparent than real; again, it is not an intentional product of historic design. In this regard, the separation of Chartist development from the pre-existing focal point around the junction makes no direct contribution to the significance of the Conservation Area, and nor does it assist in appreciating that significance. Separation is not in any case required to appreciate the distinct differences in character between Chartist development and that around the junction, which would again remain clearly apparent were the site developed.
18. Insofar as the openness of the site allows views across it, Chartist development further to the south is visible from Ledbury Road. In the absence of vegetation, the heavily modified Chartist bungalow known as Linden House immediately to the west of the site would likewise be visible from Gloucester Road. Be that as it may, these views both hold and would hold no obvious significance. Whilst they are or could be a means by which to fix the relative position of different blocks of Chartist development, this can be more simply ascertained by travelling along each of the roads in question. Though the development would reduce the size of the gap between Chartist bungalows fronting Ledbury Road and those fronting Gloucester Road, a considerable gap would remain. Once again, and as set out above, the gap is otherwise an incidental product of differing ownerships rather than historic design, and away from the road frontages the plots in any case appear to have originally adjoined.
19. I have taken into account the findings of an Inspector in an appeal relating to a proposed development of Treona Garden Nursery. This occupied the now vacant plot which falls to the south of the site. The significance of the nursery site was found to lie in the fact that it provided a vestigial open setting for the Grade II listed Chartist bungalow known as Haffield Lodge rather than that it formed part of a gap. Haffield Lodge itself forms one component of a distinctive crescent containing 3 other listed buildings, and has seen infilling of its plot by suburban housing. Whilst the circumstances therefore differ from those in the current appeal, the proposed development would not affect the contribution made by the nursery site to the setting of Haffield Lodge.
20. The continued openness of many Chartist plots, as too their relationship with the surrounding open agricultural landscape, provides some continued sense of historic context. This has been widely undermined by gentrification, and loss of smallholding activity. Where suburban infilling of Chartist plots has occurred, significance has also been eroded, as at Haffield Lodge. Many such plots along Princes Crescent have been excluded from the Conservation Area. But as established above, though the appeal scheme would itself involve infilling, this would not be of a Chartist plot. Nor would it involve development of land perceived to form a component of the open agricultural landscape setting. In neither regard therefore would the development have a cumulatively harmful effect.
21. Similarities in design have nonetheless been identified between the appeal scheme and suburban housing to the south. However, the appeal scheme would be less dense and contain a greater proportion of landscaped space. This

would help to provide it with a more rural than suburban feel, assisting its general integration. Though the layout suggests that the development would be inward-looking, and the elevations exhibit a generic contemporary appearance, each is indicative, and remains to be fixed through clearance of the reserved matters. Here it appears that a better level of engagement with the street frontages could be achieved in terms of layout, as too a more explicit response to local distinctiveness in terms of appearance.

22. Insofar as the reasons for refusal again reference 'scale', the provision of 2-storey dwellings and the proposed density would clearly contrast with adjacent Chartist development. However, in view of my findings above, there is no reason to believe that such a contrast would affect appreciation of the significance of the Conservation Area.
23. The Council asserts that several other designated and non-designated heritage assets would be harmed by the development. These include non-designated Linden House, and Grade II listed Copeland's Cottage and Copeland's, all of which are components of the parcel of Chartist development immediately to the west of the site. Insofar as all draw significance within this context, I have already established that the ability to appreciate this significance would not be harmed by the appeal scheme.
24. The non-designated Swan Inn and Nutshell Cottage together with Grade II listed Wayside Cottage are each also identified. The Swan Inn draws significance from its historic design and use as a public house, as too its prominent positioning at the junction. Whether or not a historic association exists between the site and the building, the ability to appreciate the above attributes would not be affected by the development. Furthermore, its ongoing use would be supported by improvements secured as part of the scheme.
25. Whilst Wayside Cottage opposite draws significance from its age and vernacular construction, given that it has no meaningful relationship with the appeal site, appreciation of its significance would again be unaffected.
26. Nutshell Cottage to the south of the site has been so heavily extended and rebuilt that its historic character and significance is now hard to discern externally. Though the open setting provided by the appeal site is long established, it is not apparent why this should be held to be of any importance, or therefore why any harm would arise.
27. The LVL is itself identified as a non-designated heritage asset within the supporting text of Policy AP109 of the Forest of Dean Allocations Plan 2006-2026 (the Allocations Plan). Even so, its significance is not clearly defined, and the parties struggled to provide any coherent understanding of what this might be at the Hearing. This is unsurprising given that the LVL covers the whole of the settlement including a substantial part of the surrounding landscape. At least insofar as the LVL overlaps both the site and the designated and non-designated heritage assets considered above, together with their settings, my findings above are sufficient to establish that no harm would arise.
28. I therefore find that the development would not harm the character and appearance of the area, including the significance of heritage assets and the ability to appreciate that significance. The scheme would as such preserve the settings of the listed buildings identified. It would also comply with Policy CSP4 of the Core Strategy as outlined above; Policy AP109 of the Allocations Plan

which requires development within the LVL to be without detriment to the setting of the Conservation Area; Policy AP4 of the Allocations Plan which seeks to secure high quality design; Policy AP5 of the Allocations Plan which seeks to protect and promote the special qualities, historic character and local distinctiveness of the district; and Policy CSP1 of the Core Strategy, which requires the design of development to take into account important characteristics of the environment including heritage assets.

(c) Conclusion

29. For the reasons set out above I conclude that whilst policy conflicts would arise, the lack of any related harm indicates that the site is a suitable location for the proposed development having regard to both its scale and its effect on the character and appearance of the area, including the significance of heritage assets.

Newts

30. Great Crested Newts (GCNs) are a European Protected Species. The site's presence within a 'red impact zone' for GCNs indicates the likelihood of their presence on site. That said, the site does not contain any ponds, most of it is covered by closely cropped grass, and barriers, such as the high kerbs along Gloucester Road, limit its connectivity to other suitable habitat off site. If nonetheless gaining access to the site, newts might cross it, but at other times they would be most likely restricted to the narrow perimeter hedgerows, and a small area of rough grass in the corner of the site.
31. As a patchy section of hedgerow alongside the Gloucester Road frontage of the site would be removed to provide the access and visibility splays, some unavoidable but minor potential for disturbance and injury of GCNs might arise. Direct impacts during construction within those limited parts of site which provide suitable habitat could otherwise be avoided by fencing them off. It is proposed that these features would be subsequently retained and subjected to long term management as components of the landscaping scheme. This would be consolidated by provision of additional habitat to provide both compensation for loss of the hedge and overall enhancement.
32. The Council has identified a need for more detailed survey work than has so far been undertaken. However, even in its absence, it appears that in this case the scale and nature of any likely impact can be confidently predicted, and mitigation, compensation and enhancement measures have been outlined accordingly. Here I appreciate that Circular 06/2005 highlights the importance of survey work at application stage, but it is unclear what necessary insight such additional work would provide. Though it is suggested that this might help to evidence the size of any newt population on site, if newts are present, the population is likely to fluctuate given the limited nature of the habitat available. The population could well have changed by the time the development was implemented. Whilst such change would be most likely were grazing of the site to cease, as it stands it is unlikely that there would be any adverse impact the conservation status of GCNs.
33. I am therefore satisfied that the precautionary approach advocated by the appellant within the submitted Reasonable Avoidance Measures and Method Statement (RAMMS) is proportionate. This could form the basis for a more detailed Construction Ecological Management Plan, itself formulated within the

context of an Ecological Mitigation and Enhancement Strategy presented at reserved matters stage. Whilst compensation and enhancements would be realised through the scheme design, their long-term maintenance could be secured through a Landscape and Ecological Management Plan.

34. I share the Council's view that it is likely that a license will be required. Though the Council favours use of its District Licensing scheme, the appellant protests the expense. A license could instead be obtained from Natural England at a later stage. Having regard both to my findings above, and my duties under Regulations 9(1) and 9(3) of The Conservation of Habitats and Species Regulations 2017, I have no reason to doubt that a license would be granted.
35. For the reasons outlined above I conclude that the development would have an acceptable effect on GCNs. It would therefore comply with Policy AP7 of the Allocations Plan which requires supporting habitats to be safeguarded and seeks net gains for biodiversity; Policy AP8 of the Allocations Plan which seeks to secure provision of green infrastructure within the context of safeguarding and enhancing biodiversity; Policy CSP1 of the Core Strategy which requires the design of development to take into account important characteristics of the environment including natural assets; and Policy CSP2 of the Core Strategy whose requirements largely duplicate those of the policies outlined above.

Other Matters

36. Interested parties have raised concern over the potential of the development to increase flooding. This concern is not shared by the Council. Insofar as the Lead Local Flood Authority (LLFA) had detailed involvement at application stage, I see no reason to take a different view. The drainage scheme itself remains to be finalised in relation to the scheme presented at reserved matters stage. This can be secured by condition.
37. The S106 secures the provision of affordable housing and self-build plots, ensuring that each will be delivered as proposed, and a contribution towards provision of local primary school places, mitigating the increased demand the development will generate. It additionally secures policy compliant provision of open/play space, and their future management in the interests of both amenity and biodiversity. Insofar as the S106 also secures a scheme of works to The Swan, the latter forms part of the site and the works were presented as a key benefit of the scheme. Here I am content to accept the appellant's claim that the works would be cross subsidised by the development, and that they are of further relevance in providing support for a community facility likely to see use by future occupants of the development. For the above reasons the obligations within the S106 pass the tests set out in Regulation 122 of the CIL Regulations 2010 (as amended), and paragraph 58 of the National Planning Policy Framework, and I have taken them into account accordingly.

Conditions

38. A number of conditions have been proposed and were the subject of discussion at the Hearing. I have imposed conditions based on those discussions, with further refinement as necessary.
39. Conditions (1) - (5) identify the reserved matters, the time periods for their clearance, and for commencement of development, and identify the approved access plan for sake of certainty. As clearance of reserved matters relating to

individual self-build plots would need to be undertaken individually, the conditions split the development into 2 'phases': Phase 1, the development excluding the self-build plots, and Phase 2, the self-build plots. Reserved matters applications relating to Phase 1 are necessarily prioritised given the need to first establish the physical context for Phase 2.

40. Condition (6) secures provision of an Ecological Mitigation and Enhancement Strategy, building upon previously submitted work completed in relation to the indicative scheme. The condition includes reference to a lighting strategy obviating the need for a separate condition. The condition is required in order to secure policy compliant net gains in biodiversity, and given the potential for the development to affect protected species as discussed above.
41. Condition (7) requires the provision of a finalised drainage strategy. Insofar as the LLFA indicated that the submitted strategy was acceptable in relation to the indicative scheme, the condition caters for any changes which may arise in clearance of the reserved matters.
42. Condition (8) sets out the requirement for the reserved matters applications covering layout and appearance to detail the provision of secure and covered cycle storage facilities for each dwelling. This is in the interests of promoting sustainable travel. Provision of the facilities can later be secured by condition at reserved matters stage.
43. Condition (9) requires the provision of a Construction and Environmental Management Plan, taking into account the submitted RAMMS, and complementing the Ecological Mitigation and Enhancement Strategy secured in relation to Condition (6). Whilst the condition makes reference to licensing, it does not impose a requirement to obtain a license given that where applicable, this requirement already exists in law. The condition is pre-commencement given that impacts may arise from the outset.
44. Condition (10) requires provision of a Landscape and Ecological Management Plan, securing management of landscaping on site in the interests of biodiversity, and assisting delivery of measures identified in relation to Condition (6). The condition is pre-commencement given that certain measures are likely to require implementation from the outset.
45. Condition (11) secures provision of a Construction Management Strategy, the purpose of which is to help safeguard neighbour amenity and highway safety. A pre-commencement condition is required as management measures will again need to be implemented from the outset.
46. Condition (12) secures implementation of tree protection measures in the interests of safeguarding trees on and adjacent to the site.
47. Condition (13) requires the provision of visibility splays prior to first use of the access in the interests of highway safety.
48. Condition (14) is imposed to ensure that roads and pavements are sufficiently completed to enable safe access prior to first occupation.
49. Condition (15) secures provision of a pedestrian crossing in order to better connect the development to services within the settlement at large, including the doctors surgery and school on the opposite side of Gloucester Road.

50. I have not imposed a condition requiring details of how the dwellings will achieve net zero. Whilst this may be a proposal, there is no policy basis for the requirement, which would exceed current building regulations.

Conclusion

51. For the reasons set out above I conclude that notwithstanding some identified conflict with the development plan, material considerations indicate that the appeal should be allowed.

Benjamin Webb

INSPECTOR

Schedule of Conditions

- 1) Insofar as they relate to all parts of the development hereby permitted excluding the self-build plots (hereinafter "Phase 1"), details of appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development takes place and the development shall be carried out as approved.
- 2) Insofar as they relate to each individual self-build plot hereby permitted (hereinafter "Phase 2") details of the reserved matters shall be submitted to and approved in writing by the Local Planning Authority before any development takes place and the development shall be carried out as approved.
- 3) Application(s) for approval of the reserved matters in relation to Phase 1 shall precede any application(s) made for approval of the reserved matters in relation to Phase 2. All applications for approval of the reserved matters shall be submitted to the Local Planning Authority not later than 3 years from the date of this permission.
- 4) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 5) To the extent that it shows details of the site access, the development hereby permitted shall be carried out in accordance with the following approved plan: 23-0385-RAP-XX-XX-DR-TP-3200.
- 6) Prior to or as part of the first reserved matters application, a site-wide Ecological Mitigation and Enhancement Strategy (EMES) shall be submitted to and approved in writing by the Local Planning Authority. The EMES shall be prepared in accordance with BS 42020:2013 ('Biodiversity – Code of practice for planning and development'), or any superseding British Standard, shall be informed by the submitted 'Updated Ecological Assessment and Mitigation for Land at the Swan Inn Staunton' dated 16 Dec 2023, and shall include a bat sensitive external lighting strategy. Details submitted in relation to any subsequent reserved matters application will demonstrate how measures specified within the EMES will be incorporated within the design of the development.

- 7) Prior to or as part of the first reserved matters, a finalised site-wide surface water drainage strategy based on the submitted Flood Risk Assessment and Drainage Strategy dated 11 December 2023, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include a timetable for its implementation. The scheme shall then be implemented as approved.
- 8) Details submitted in relation to the reserved matters of layout and appearance for both Phases 1 and 2 shall detail the provision of secure and covered cycle storage facilities for a minimum of 2 bicycles per dwelling.
- 9) Prior to the commencement of the development hereby permitted a site-wide Construction and Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. The CEMP shall be prepared in accordance with clause 10 of BS 42020:2013 ('Biodiversity – Code of practice for planning and development'), or any superseding British Standard, shall be consistent with the EMES approved in relation to Condition 6, and informed by the submitted 'Reasonable Avoidance Method Statement'. The CEMP shall include the following details:
 - a) a risk assessment of potentially damaging construction activities;
 - b) identification of biodiversity protection zones;
 - c) mitigation method statements;
 - d) practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction;
 - e) the location and timing of sensitive works to avoid harm to biodiversity features, including protective fences, exclusion barriers and warning signs;
 - f) the times during construction when specialist ecologists need to be present on site to monitor works to ensure compliance with the CEMP, and the actions that will be undertaken;
 - g) any licensing requirements;
 - h) responsible persons and lines of communication; and
 - i) the role and responsibilities on site of an ecological clerk of works or similarly competent person.Construction of the development shall proceed in accordance with the approved CEMP.
- 10) Prior to the commencement of the development hereby permitted a site-wide Landscape and Ecological Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. The LEMP shall complement the EMES approved in relation to Condition 6, and tree protection measures secured in relation to Condition 12 and shall include the following details:
 - a) a description and evaluation of features to be managed;
 - b) ecological trends and constraints on site that might influence management;
 - c) aims and objectives of management;
 - d) appropriate management options for achieving aims and objectives;
 - e) prescriptions for management actions;
 - f) a work schedule (including an annual work plan capable of being rolled forward over a five-year period);
 - g) identification of the body or organization responsible for implementation of the LEMP;
 - h) ongoing monitoring and remedial measures;

- i) the legal and funding mechanisms by which the long-term implementation of the LEMP will be secured with the management bodies responsible for its delivery; and
- j) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.

The development shall then be implemented and thereafter managed in accordance with the approved LEMP.

- 11) Prior to the commencement of the development hereby permitted a Construction Management Strategy (CMS) shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall be compatible with the CEMP approved in relation to Condition 9 and tree protection measures secured in relation to Condition 12 and shall include details of:
- a) working hours;
 - b) parking locations for site operatives and visitors;
 - c) identification of areas within the site for loading, unloading and storage of plant, materials and waste;
 - d) identification of locations within the site for office and welfare facilities;
 - e) management of arrivals and departures, including routeing, and any necessary traffic management measures;
 - f) measures to prevent/control the spread of dirt and mud onto the highway;
 - g) measures to minimise noise nuisance to neighbours from plant and machinery; and
 - h) a 24-hour emergency contact number.
- Construction of the development shall then proceed in accordance with the approved CMS.
- 12) The development hereby permitted shall be carried out in accordance with the submitted 'Arboricultural Report Impact Assessment and Method Statement' dated 1 December 2023, including Tree Retention/Removal Plan Ref. WTC_1128.03 and Tree Protection Plan Ref. WTC_1128.04.
- 13) The access hereby permitted shall not be brought into use until the existing roadside boundaries have been set back to provide the visibility splays shown on the approved plan.
- 14) Prior to the first occupation of any dwelling hereby permitted the carriageway providing access to and from the nearest public highway shall be completed to at least binder course level, and the footway to surface course level.
- 15) The development hereby permitted shall not be occupied until a tactile paved pedestrian crossing has been provided across the A417 Gloucester Road to the south of the site access in accordance with details which have first been submitted to and approved in writing by the Local Planning Authority.

APPEARANCES

For the Appellant

Rob Chamberlayne	(Appellant) The Chamberlayne 2021 Discretionary Trusts
David Marley	(Housing) Black Box Planning
Ben Read	(Planning) Black Box Planning
James Weir	(Heritage) Tor & Co
Ros Wilder	(Newts) Wilder Ecology

For the Local Planning Authority

Keith Chaplin	(Housing) Forest of Dean District Council
Stephen Colegate	(Planning) Forest of Dean District Council
Krzysztof Kwiatkowski	(Legal) Gloucestershire County Council
Anouska Laramy	(Newts) Forest of Dean District Council
Minette Matthews	(Heritage) Forest of Dean District Council

Interested parties

Carole Milner	Local resident
David Wicks	Local resident

Documents presented at the Hearing

Appellant's Application for a Partial Award of Costs.

Costs Rebuttal Statement from the Local Planning Authority.

Statement of Common Ground.

Transcript of comments by Carole Milner, with attached images.

Transcript of comments by David Wicks.



Costs Decision

Hearing held on 22 January 2025

Site visit made on 23 January 2024

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 12 February 2025

Costs application in relation to Appeal Ref: APP/P1615/W/24/3353011
Land at The Swan, Ledbury Road, Staunton, Gloucestershire GL19 3QA

- The application is made under the Town and Country Planning Act 1990, sections 78, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by The Chamberlayne 2021 Discretionary Trusts for a partial award of costs against Forest of Dean District Council.
 - The Hearing was in connection with an appeal against the Council's refusal of planning permission for development described as the erection of up to 17 dwellings (up to 10 self-build dwellings and 7 affordable dwellings) with associated access, car parking and landscaping, and play area, alongside improvements and external alterations to the Staunton and Corse Community Hub.
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Decision

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

Preliminary Matters

2. The application and Council's response were made in writing, and the appellant's response was made orally.

Reasons

3. 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.
4. The appellant claims that the Council acted unreasonably on 2 grounds:
 - a) in failing to engage in the Statement of Common Ground (SOCG) process in a timely manner; and
 - b) in failing to meet deadlines in relation to submission of its statement of case.

Ground (a)

5. The agreed SOCG was not submitted until the day before the Hearing. The provision of a SOCG at such a late stage in the appeal process limits its usefulness to all parties, including the Inspector. Hence the existence of deadlines and need for all parties to observe them.

6. Having been originally due on the 28 November 2024, 2 extensions of time were granted at the request of each party. The first of these requests was received from the Council and was reasonable on account of illness. This extended the deadline to 5 December 2024. The second was at the request of the appellant, and was again reasonable on account of scheduling issues arising from the first extension of time. This extended the deadline to the 10 December 2024.
7. A further extension was then granted to 6 January 2025 given the inability of the parties to meet the 10 December deadline. This was principally due the Council's failure to provide timely feedback to the appellant.
8. Even taking the Christmas holidays into account, the 6 January deadline provided ample opportunity for the SOCG to be finalised. Again, the failure to meet the deadline was principally due to a lack of timely communication on the part of the Council. A further 2 weeks then passed during which time the appellant sought engagement without apparent success, until very close to the date of the event.
9. The Council's failure to properly engage with the appellant in finalising a SOCG despite both repeated and generous extensions of time was wholly unreasonable.
10. Very minor expense would have been incurred by the appellant in sending chasing emails, and these emails might have been avoided had the Council chosen to respond in a timely fashion. However, I cannot find that such expense was either unnecessary or wasted. This is because the emails were sent in pursuit of a SOCG which was a required component of the appeal.
11. Insofar as the appellant states that the Council's late engagement led to specialists undertaking unnecessary preparatory work in relation to facts and details, the appellant has failed to specify exactly what this alleged unnecessary work entailed. Though abortive preparatory work can be a consequence of the failure of parties to agree a timely SOCG, it is not for me to speculate on the nature of such alleged abortive work in the current case. In the absence of details, I am therefore unable to identify any unnecessary or wasted expense.
12. Though some of the Council's reasons for refusal were withdrawn, this was not a matter separately established through the appellant's provision of additional evidence with the appeal and work on preparation of a Section 106 Agreement.
13. For the above reasons Ground (a) fails.

Ground (b)

14. The Council's statement of case was due on 28 November 2024. It was however submitted on 10 December 2024, without any formal extension of time having been granted. This was allegedly due to a misunderstanding of the deadline granted in relation to the SOCG as considered above, which was itself in any case missed. The appellant claims that they did not then see the

Council's statement of case until the 12 December 2024, 2 weeks after the deadline.

15. The situation was unsatisfactory, but some allowance can be made for human error. Though it is apparent that the appellant would have preferred the Council's statement of case to be turned away, this would not itself have assisted in understanding the Council's case, or the efficient running of the Hearing.
16. The appellant notes that the Council's statement went further than the officer report. Indeed, it expanded upon the officer report, responded to the appellant's case, and contained supporting evidence. As it therefore did what is ordinarily expected of a statement of case, it is unclear where the appellant's complaint lies.
17. Though the appellant might well have initially instructed specialists to prepare on the basis of the Council's officer report, such work would not have been without value given that the Council's case at appeal remained consistent with its assessment at application stage. I have no reason to believe that work carried out in response to the Council's statement of case would have been any different in substance had the statement instead been submitted on 28 November 2024.
18. The appellant claims that expense was incurred in instructing a landscape expert to prepare for and to attend the Hearing. As the expert was not required to make any contribution their presence was unnecessary. However, it remains unclear how and why this is relates to the Council's late submission of its statement of case. The Council did not itself provide a landscape witness. In this regard each party ultimately bears responsibility for the composition of their team at a Hearing.
19. For the above reasons Ground (b) fails.

Conclusion

20. For the reasons set out above I conclude that whilst aspects of the Council's behaviour were unreasonable, it has not been demonstrated how this resulted in unnecessary or wasted expense. An award of costs is not therefore justified.

Benjamin Webb

INSPECTOR