



Appeal Decision

Inquiry held on 2 & 3 March 2011 and resumed on 31 March 2011
Site visit made on 30 March 2011

by Louise Crosby MA MRTPI

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

Decision date: 28 April 2011

Appeal Ref: APP/E2530/A/10/2136247

Valley Lane, Long Bennington, Grantham, Lincolnshire, NG23 5DY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Larkfleet Homes against the decision of South Kesteven District Council.
 - The application Ref: SO9/1233/MJRF, dated 22 May 2009, was refused by notice dated 23 March 2010.
 - The development proposed is erection of 29 affordable dwellings and associated infrastructure.
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Application for costs

1. At the Inquiry an application for costs was made by Larkfleet Homes against South Kesteven District Council. This application is the subject of a separate Decision.

Decision

2. I dismiss the appeal.

Procedural matters

3. Although the Council's decision notice contained 3 reasons for refusal, the 3rd reason relating to the sustainability of the site was withdrawn prior to the Inquiry. Also, following the decision to refuse planning permission, the Council has adopted its CS¹. I shall deal with the appeal on the basis of the first 2 reasons for refusal and the CS.

Main Issues

4. The main issues are whether:
 - i) the provision of affordable housing in this location would accord with the relevant local and national planning policy objectives in relation to the provision of affordable housing and;
 - ii) the existing noise environment would provide acceptable living conditions for the future occupiers of the proposed dwellings.

¹ Adopted South Kesteven Core Strategy

Reasons

Background

5. The appeal site is located on the edge of Long Bennington outside the settlement limits defined in the LP and therefore in open countryside. It is presently used for agricultural purposes and therefore does not constitute previously developed land. The site would be accessed off Valley Lane, a busy road leading to the area west of the nearby A1 dual carriageway trunk road and the access onto its north bound carriageway.

Whether the provision of affordable housing in this location would accord with the relevant local and national planning policy objectives in relation to the provision of affordable housing

6. Long Bennington is defined within the adopted South Kesteven Core Strategy (CS) policy SP2 as a local service centre (LSC). The CS envisages that after the main towns within the District development will be focussed on the LSC's. It was agreed at the Inquiry that there have been significantly less affordable homes built in recent years than the previous target or that set out in the CS. A number of reasons were cited, including the depressed housing market. An annual average of 191 affordable dwellings were delivered, in the district, over the period 2006-2010 and I understand a similar number are expected by the end of the current monitoring period (2010-2011). The CS establishes a requirement of 238 affordable dwellings per annum. It is agreed between the parties that this falls well short of the real need. Also, whether this is achieved is highly dependent upon the delivery of market housing and as each year the target is unmet, so the demand becomes greater.
7. There are very few undeveloped sites allocated in the LP² remaining within the district and it is expected that the recently published 'Site Allocation and Policies Development Plan Document – Policies Consultation' (DPD) will not be adopted until at least next year. At present the Council can only demonstrate a 4.8 year supply of housing across the District, but this is only marginally short of the 5 year requirement. The DPD envisages that affordable housing in LSC's will be provided on allocated sites or windfall sites in accordance with CS policy H3. Policy H3 seeks the provision of up to 35% affordable housing for developments of 5 or more dwellings in villages such as Long Bennington.
8. The Council accepts that there is currently a local need for at least 19 affordable dwellings in the Long Bennington area to meet the needs of people with a local connection. However, policy H3 only requires there to be a clearly proven need for local affordable housing on sites which are located in or adjacent or smaller villages and not LSC's. As such, the provision of 29 affordable dwellings in a LSC would be acceptable in principle.
9. While it would be better to integrate such housing with market housing on sites within Long Bennington, and other LSC's, the timescale for this is likely to be frustrated by the time to adopt the site allocations DPD. Nevertheless, despite the proposal including a range of tenures, houses types and sizes I have concerns about an affordable housing scheme of this size on the edge of Long Bennington. In my view it would not be sufficiently well integrated into the village, instead a development of this size on a greenfield site in open countryside, would appear as an uncharacteristic and standalone addition to

² South Kesteven Local Plan

the edge of the village. Moreover, the adoption of the DPD is not likely to be so far into the future that it should be seen as a reason to not integrate high quality affordable housing into existing communities.

10. The current and growing shortfall in affordable housing in the district weighs heavily in favour of the proposal. This issue is very finely balanced, but I have attached greater weight to the need to integrate these dwellings in a more strategic, inclusive and sustainable manner and thus create a high quality living environment within the village for future residents. The proposal would not necessarily conflict with CS policy H3, but it would conflict with national planning guidance in so far as it seeks to ensure that affordable housing is high quality and as with all housing promotes community cohesion and inclusion. As such the proposal would conflict with the objectives of PPS1 and PPS3.

Whether the existing noise environment would provide acceptable living conditions for the future occupiers of the proposed dwellings

11. It is agreed that there are two main noise sources which would potentially affect residents living at the appeal site. Firstly traffic on the A1, to the west of the site, and secondly traffic on Valley Lane to the north. Valley Lane is the main route for heavy goods vehicles travelling from the two industrial parks in Long Bennington to the A1 (northbound). It is common ground that at least part of the undeveloped site falls within Noise Exposure Category (NEC) C, as defined in PPG24³. According to PPG24 sites falling within this NEC should not normally be granted planning permission, but where it is considered that permission should be given, for example because there are no alternative quieter sites available, conditions should be imposed to ensure a commensurate level of protection against noise.
12. Consequently, the appellant proposes a suite of measures aimed at attenuating noise both within the proposed garden areas and inside the dwellings. A bund with an acoustic fence on top would be erected along the western boundary of the site in order to attenuate noise from the A1. In addition, the gardens of the dwellings would be surrounded by 1.8 metre high acoustic fencing. It is proposed that some of the dwellings would include measures to reduce noise internally and those worst affected would require a form of mechanical ventilation.
13. Noise assessments have been carried out by the appellant and the Council. The Council's and appellants' assessments provide very different data about existing background noise levels and the likely noise levels across the site following the installation of the proposed sound attenuation measures. An additional survey was submitted with the planning application, however it is agreed that this did not seem to take account of traffic on Valley Lane and therefore is less accurate than the latest assessment. Therefore I have attached much less weight to its findings.
14. The Council's CRTN⁴ survey is based on averages of weather, traffic speed and volume etc and it was agreed that this data was likely to under-represent the noise from the A1. The appellant's 24 hour survey was carried out on a weekday and although some variations in traffic flow are to be expected from day to day and month to month, this is unlikely to be to such a degree that it would discredit the assessment. One of my main concerns with the appellants'

³ Planning Policy Guidance Note 24: Planning and Noise

⁴ Calculation of Road Traffic Noise

noise survey is in relation to the accuracy of the recorded wind direction throughout the latter part of the 24 hour assessment. According to the appellants, weather conditions during the survey were calm with wind speeds less than 5m/s. Their noise assessment also states that the wind, when blowing, was from west to east and therefore from the A1 towards the site i.e. the prevailing wind direction. This would represent a worst case scenario in terms of noise since the traffic noise from the A1 would be blown towards the appeal site.

15. However, at the Inquiry the Council produced weather data for the period when the appellants' 24hr noise assessment was being carried out. This had been collected at local RAF stations; Cranwell about 20km east of Long Bennington, Cottesmore around 32km south of Long Bennington and Waddington about 24km north east of Long Bennington. These show that although the wind direction was from the west during the morning, during the day the wind direction changed. By the evening and night time the wind direction, particularly at the nearest RAF stations had changed to south easterly and it had also increased in speed markedly.
16. Clearly these changes in wind direction and speed would have affected the noise readings taken during the latter part of the 24 hour assessment. Those taken in the morning and afternoon would be much more accurate than those taken in the evening and at night when the south easterly wind would have blown the noise from the A1 away from the site. It would have also affected noise from Valley Lane similarly, although possibly to a lesser degree. According to the Council, this would have been likely to reduce the evening and night time readings by approximately 10 dB. This correlates with the charts produced by the appellant showing the noise readings suddenly falling around the same time (between 1900hrs and 200hrs) that that wind direction changed. In my experience the levels of traffic on roads, such as the A1, do not drop so dramatically over such a short space of time in the evening. Nor would the vehicles on Valley Lane, which show up as intermittent high, noise levels become quieter in the evening.
17. Regarding noise levels in first floor bedrooms at night, noise readings taken at location 2 of the appellants' noise survey show short, sharp increases in noise throughout the night. It is agreed that these arise as a result of noise from heavy goods vehicles travelling along Valley Lane and up the bridge over the A1, under load. Assuming a prevailing westerly wind these noise events would be in excess of 70 dB. As such, they represent significant spikes in noise and may be higher in certain weather conditions. So, notwithstanding the constant noise, which could make sleeping with windows open on large parts of the site difficult, those proposed dwellings facing Valley Lane would experience particular difficulties because of the maximum noise levels and the regularity in the high peaks in noise throughout the night. This type of noise is widely acknowledged to be more harmful than continuous noise and would be likely to result in sleep disturbance. Indeed I heard from 2 residents living close to the appeal site, but farther way from A1 than these dwellings would be, that they cannot sleep at night with windows open because of the background noise levels.
18. I realise that dwellings can be installed with acoustic glazing to attenuate noise levels far higher than those present on this site and that this could be controlled by planning conditions. Clearly this would need to be combined with a ventilation system, which I understand all dwellings would have fitted in any

event. However, I am not convinced that despite this type of ventilation residents would not wish to open their windows in hot weather. While I realise that the windows in the dwellings could be opened, in many cases the external noise would make this option highly undesirable when trying to sleep. This in my view would lead to harmful living conditions at night for some residents.

19. In terms of the likely noise in the proposed gardens, it is agreed between the parties, based on guidance provided by WHO⁵ that "general daytime noise levels of less than 55 dB(A) L_{Aeq} are desirable to prevent any significant community annoyance". In this case, according to the appellant, all of the gardens following the introduction of the proposed mitigation measures, such as the bund and acoustic fencing, would have free-field external noise levels in the daytime of about 55 dB L_{Aeq} , or below.
20. My second main concern with the appellants' noise assessment is that these calculations assume a noise reduction of around 18dB for the bund barrier and fail to take account of the increased noise near to the dwellings as a result of the façade effect. Paragraph 5.5.4 of BS 8233⁶ advises that attenuation barriers commonly provide attenuation values of around 10 db, but a barrier may reduce the benefits of any ground absorption. Even without the façade effect, assuming a maximum noise reduction of 10 dB as a result of the barrier bund, a number of gardens would have noise levels well in excess of 55 dB(A) L_{Aeq} . There is disagreement between the parties about the effectiveness of the proposed acoustic fences around the gardens. Nevertheless, the exceedances are so great in some cases here that they would, in my view, fail to reduce noise levels to a satisfactory level. This would be in conflict with WHO advice and that in PPG24.
21. Turning to consider the internal noise environment in the day time; it was agreed at the Inquiry that some dwellings, particularly those closest to the bund, would not be able to open windows on at least one elevation without experiencing unacceptable levels of noise. The appellant concludes that bedrooms facing away from the A1 would generally meet the BS8233 'good standard' with windows open. This is in relation to continuous noise, based on their noise monitoring. There is a lack of agreement between the parties about precisely which windows would be likely to be able to be opened and how many dwellings would not be able to open any windows without suffering noise nuisance above that recommended in BS8233 and WHO⁷ guidance.
22. In my view the day time noise levels would not be so significant that they could not be mitigated in an acceptable manner. In reaching this view I have taken into account the noise that generally occurs within dwellings in any event and that all of the dwellings would have at least some windows on elevations not facing noise sources that could be open for rapid ventilation purposes. I am also mindful that the appellant's noise survey more accurately assesses morning and afternoon noise.
23. I find on this issue that the position of the site in close proximity to two noise sources would result in harm to living conditions within many of the proposed garden areas. In addition, annoyance for residents close to Valley Lane would occur at night, particularly if they wished to sleep with their windows open. The unpredictable noise on Valley Lane would be particularly hard to mitigate.

⁵ World Health Organisation

⁶ Sound insulation and noise reduction for buildings - Code of practice

⁷ World Health Organisation

Moreover, the noise would not just affect a small percentage of the plots it would potentially affect the way in which residents would be able to use their dwellings on a significant number of plots contrary to CS policy EN1. In reaching this view I am mindful that the dwellings would be affordable housing and paragraph 27 of PPS3⁸ states 'the Government is committed to providing high quality housing for people who are unable to access or afford market housing...'. In my view that would not be the case here because the noise environment would in many cases have a significant adverse effect on living conditions. This harm is sufficient on its own for the appeal to fail.

Other matters

24. Regarding the other matters raised by local residents, I consider that the access would not be detrimental to highway safety given its design and the good visibility available along Valley Lane. The living conditions of existing residents would be protected because of the distance between the proposed and existing dwellings. Drainage is a matter that would be dealt with by other legislation. The local road network could accommodate the likely increase in traffic. Moreover, the design of the dwellings would respect the character and appearance of the surrounding area.
25. I realise that there are concerns about the capacity of local services and in particular the local school. However, it is agreed between the parties that the likely increase in pupils at the school would not be significant since the dwellings would be likely to be occupied by people already living in the area and thus already have children attending the school. On this basis it was agreed that a commuted sum for education would not be required. I have no reason to disagree.

Conclusions

26. I find that living conditions would be unacceptable for many residents of this proposed development as a result of the existing noise environment and this is an overriding reason for this appeal to fail. Moreover, the provision of affordable housing in Long Bennington should be provided as part of larger developments in order to achieve the Government's objectives of creating mixed and balanced communities and social cohesion. The lack of harm in relation to the other matters does not outweigh my conclusions on the main issues.
27. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Louise Crosby

INSPECTOR

⁸ Planning Policy Statement 3: Housing

APPEARANCES

FOR THE APPELLANT:

Mr R Kimblin of Counsel

He called

Mr R Watson	Blue Tree Acoustics
Mr D Smith	Larkfleet Homes
Mr R Edwards	As above

FOR THE LOCAL PLANNING AUTHORITY:

Ms J Wigley of Counsel

She called

Mr M Stigwood	MAS Environmental
Mr C Rae	Colin Rae Associates

INTERESTED PERSONS:

Cllr P Wood	Local Member
Mr G Dawking	Local resident
Mr P Goodman	As above
Ms S Poon	As above

DOCUMENTS

- 1 Statement of common ground
- 2 Statement of common ground in relation to noise
- 3 Copy of BS 8233 – Sound insulation and noise reduction for buildings – Code of practice
- 4 Weather data relative to Long Bennington
- 5 Revised Noise maps 3 to 5 in relation to Mr Stigwood's proof of evidence
- 6 World Health Organisation – Guidelines for Community Noise
- 7 Extract of A-Z map covering Long Bennington and surrounding area
- 8 Written statement of Cllr P Wood
- 9 Written statement of Mr G Dawkins
- 10 Written statement of Mr P Goodman
- 11 Copy of front cover of MHSO Calculation of Road Traffic Noise
- 12 Site Allocation and Policies Development Plan Document - Policies Consultation – November 2010
- 13 Revised appendix SKDC 9 to accompany the proof of evidence of Colin Rae
- 14 Suggested noise condition



Costs Decision

Inquiry held on 2 & 3 March 2011 and resumed on 31 March 2011
Site visit made on 30 March 2011

by Louise Crosby MA MRTPI

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

Decision date: 28 April 2011

**Costs application in relation to Appeal Ref: APP/E2530/A/10/2136247
Valley Lane, Long Bennington, Newark, NG23 5DY**

- 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 Larkfleet Homes for a full award of costs against South Kesteven District Council.
 - The inquiry was in connection with an appeal against the refusal of planning permission for erection of 29 affordable dwellings and associated infrastructure.
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Decision

1. I refuse the application for an award of costs.

The submissions for Larkfleet Homes

2. The costs application was submitted in writing. My attention was drawn also to the correspondence submitted as evidence to support the costs application.

The response by South Kesteven District Council

3. The response was made in writing. My attention was drawn also to the correspondence submitted as evidence to support the Council's response to the costs application.

Reasons

4. Circular 03/2009 advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
5. In relation to the affordable housing issue, it seems to me from the copy correspondence submitted that the Council's expert witness did engage with the appellant's team to try to agree common ground. Clearly the policy position changed in relation to this reason for refusal following the issue of the Council's decision. The policy situation did seem to become confused because of the adoption of the CS¹ after the Council determined the planning application and because the appellant originally sought to justify the proposal on the basis of a rural exception site. This confusion is to some degree understandable. As can be seen from my decision I agree that the proposal fails to accord with national planning policy in relation to the provision of affordable housing. On balance, I find that the Council did not act unreasonably in this regard.

¹ Adopted South Kesteven Core Strategy

6. Had the Council been able to employ a noise consultant at a much early stage in the appeal process then Inquiry time could have been saved since it would have potentially enabled more common ground to be established. However, the ability of the Council to engage a noise consultant appears to have been frustrated. This is because a number of noise consultants they contacted would not represent them since they act for the appellant from time to time. This is what led to the delay in eventually appointing a consultant, not a lack of willingness to engage in the appeal process.
7. Consequently from the evidence before me it seems that the Council acted in accordance with the relevant advice set out in paragraph A28 of Circular 03/2009. Importantly, I am not convinced that the Council have acted in a manner which has resulted in the appellant incurring unnecessary expense.
8. I find therefore that unreasonable behaviour resulting in unnecessary expense, as described in Circular 03/2009 has not been demonstrated and that a full award of costs is not justified.

Louise Crosby

INSPECTOR



Appeal Decisions

Site visit made on 5 July 2011

by **Keith Turner LLB(Hons) DipArch(Dist) RIBA MRTPI**

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

Decision date: 20 July 2011

2 Appeals at Marston Hall, School Lane, Marston, Grantham NG32 2HQ

- The appeals are made by Mr John Thorold against South Kesteven District Council.

Appeal 1: APP/E2530/A/11/2149201

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The application Ref S10/0256/FULL, is dated 9 February 2010.
- The development proposed is change of use from residential use to residential use plus use of Hall for access to the public, civil weddings, entertainment receptions, guided tours, conferences, and use of adjacent field area as car parking in connection with events.

Appeal 2: APP/E2530/A/11/2149199

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The application Ref S10/0253/FULL, dated 9 February 2010, was refused by notice dated 15 September 2010.
- The development proposed is formation of access track within site from existing access on Bridge Street.

Decisions

Appeal 1: APP/E2530/A/11/2149201

- The appeal is dismissed.

Appeal 2: APP/E2530/A/11/2149199

- The appeal is dismissed.

Preliminary Matters

- The applications which are the subject of these appeals are separate and the Appellant has suggested that they be determined individually on their merits. This matter arises because the Council, in refusing planning permission for the access track, did so with reference to the proposed use of Marston Hall which is the subject of Appeal 1.
- I consider that the two appeals are not divisible and that the Council's approach was correct for two reasons. First, access drives on the site have been previously refused on the basis that there was no overriding need for them. The need in this instance is to provide access to Marston Hall for visitors primarily associated with the use proposed in Appeal 1, together with delivery and other vehicles servicing that use. Second, without a new access there may

be insufficient parking provision within the grounds of the. Whilst some areas could be used under permitted development rights, they may not be sufficient for the use as now proposed.

5. Consequently, whilst I shall deal with the appeals separately, I shall have regard to the relationship between them described above.

Appeal 1: APP/E2530/A/11/2149201

Development Context

6. The appeal premises comprise a Grade II* listed building. In addition the church adjoining the western boundary of the site is a listed building. These facts introduce statutory duties to the decision process. When considering whether to grant planning permission for development which affects a listed building or its setting, special regard must be had to the desirability of preserving the building, its setting or any features of special architectural or historic interest which it possesses¹.
7. Part of the grounds in which Marston Hall is set comprise a garden which is entered on the Register of Parks and Gardens. This, along with the listed buildings, is a designated heritage asset within the terms of PPS5². That document contains national policy relating to heritage assets and Policy HE9.1 clearly states that there should be a presumption in favour of the conservation of such assets, and that the more significant the designated asset the greater the presumption in favour of its conservation should be. These principles are reflected in Policy EN1 of the Core Strategy in the Local Development Framework for South Kesteven July 2010.
8. The appeal proposal seeks to change the use of Marston Hall from residential to a mixed use for residential and use for access to the public, civil weddings, entertainment receptions, guided tours, and conferences. I note that public access to the building is already provided on 28 days of the year. This derives from an undertaking given in return for grant assistance at some time in the past. There is no indication of an intention to increase the level of that activity. Public access is only by prior appointment and by guided tours. The additional elements of the use would be confined to specified ground floor rooms within the building, but additional facilities would be needed outside.
9. In order to facilitate the larger events proposed, a marquee would need to be erected in the grounds. Also, the additional non-residential uses would require a car parking area, and this is proposed in an adjacent field. That area would not be surfaced, nor permanently marked out, though it may be defined during events. The facility would lie outside the boundaries of the Registered Garden and, whilst separated from it by some planting, it would be within the setting of Marston Hall.
10. The land on which the car parking is proposed has been subject to flooding on occasions in the past by the immediately adjacent River Witham. Policy EN2 of the Core Strategy, which states that planning permission will not normally be granted in areas identified as at risk of flooding, is therefore relevant.
11. The uses proposed are considered acceptable in principle by the Council. However, there are concerns expressed by local residents and the Parish

¹ S66(1) Planning (Listed Buildings and Conservation Areas) Act 1990, as amended
² Planning Policy Statement 5: Planning for the Historic Environment, Annex 2

Council in relation to the effect upon amenity of the increased activity and noise likely to be associated with them.

Main Issues

12. Having regard to the above factors, and all the representations before me, there are four main issues raised by this appeal.
 - (a) Whether the proposed use would preserve the character of the appeal building and its setting.
 - (b) Whether the proposed car parking provision would preserve the setting of the Listed Building and Registered Garden.
 - (c) Whether the risk of flooding of the car parking area would present problems of access and parking elsewhere in the village to the detriment of highways safety and amenity.
 - (d) Whether the increased activity taking place by virtue of the proposed use would detract unacceptably from the amenity of nearby residents.

Reasons

13. The rooms in the Hall would not require physical alterations to accommodate non-residential elements of the proposed use and the residential use would continue in them between events. Cooking and such like for the catering would be done elsewhere, with only re-heating and preparation for serving carried out on the appeal premises. No material alterations would be required to permit this either.
14. The nature of the events proposed is similar to those found in other listed buildings, and indeed permission has been given for similar events in such locations. Examples cited by the Appellant are Allington Manor, Priory House at Long Bennington and St Vincent's in Grantham. This, and the fact that there is no substantial evidence to suggest that there would be any detrimental impact upon the fabric of the building, leads me to conclude that the character of the building as one of special architectural or historic interest would be preserved by this aspect of the proposed use.
15. The primary purpose of seeking to institute the new use is to provide funds for the maintenance and repair of the building. This, and continuing the original use in association with others which are not detrimental to the fabric or character of the building, would contribute significantly to its long term preservation and so would accord with the principles of national policy in that respect.
16. One factor would, however, materially affect the setting of the listed building. A marquee would be essential to accommodate the larger events proposed. That would be situated close to the east of the Hall and within its Registered Garden. Being temporary in nature and appearance, and of non-traditional appearance, it would be a somewhat discordant feature in the setting of the listed building when present.
17. The erection of a marquee would generally be permitted development for 28 days in any one year through the provisions of the GPDO³. However, the proposed site for the marquee would, in my judgement, be sufficiently close to

³ Class B of Part 4 in Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995, as amended

the Hall to be within its curtilage both as a dwelling and as a listed building. Therefore permitted development rights would be precluded by the terms of paragraph B1(a) of the GPDO. Consequently, it would require express planning permission even for those 28 days proposed. The negative impact of the marquee needs, therefore, to be balanced against the benefits of the proposed use in arriving at a balanced planning judgement.

18. Temporary structures are commonly used within the grounds of listed buildings to accommodate functions either within the building or its grounds. The short term presence of them generally renders their visual harm to the setting of such buildings acceptable. However, I note the comment of one resident that such structures take time to erect and dismantle and this adds to the number of days the setting would be detrimentally affected by probably one either side of the day of use. This would bring the percentage time of visual impact up to about 23% of any one year. Given how close the marquee would be to the listed building and its registered garden, I find this would be sufficiently harmful to the setting of the heritage assets to outweigh the benefits of that aspect of the use.
19. Turning now to the second issue, the area required for car parking would be quite expansive in order to accommodate the 80 or so vehicles suggested by the Highway Authority. That figure appears to be realistic, given the maximum number of people proposed for the larger events. It has also been accepted by the Appellant. The parking area would not be surfaced, but would, nevertheless, contain vehicles during all events, both large and small. Although further from the listed building and its garden than the marquee, there would be some visual impact upon their wider setting, and possibly upon that of St Mary's Church. Again this must be weighed against the benefits which the proposed use would bring.
20. There would be no limit on the number of smaller events. The car park would also be used during the periods of public access which are currently about 28 days per year. It would be used during the larger events for a further 28 days per year, and by service vehicles more generally. It is probable, therefore, that the car park would contain vehicles for a high proportion of each year. The presence of up to 80 vehicles in an otherwise rural context would appear somewhat incongruous and would not preserve the character of the listed building and its garden. This would be outweighed to some degree by assuring the longer term preservation of the heritage assets. However, I consider that the periods of use would probably be too great to set aside the harm. This view does not take account of any need for external lighting which could also detract from the appearance of the surroundings if it were required.
21. Turning to the other concerns pertaining to the car parking, the location proposed is adjacent to the river and is low-lying ground. It is therefore at some risk of flooding. Were this to occur when functions were taking place at the Hall, it is probable, as local residents have suggested, that the associated car parking demand would be forced into the surrounding village streets. I accept that this would be unacceptable due to the narrowness of those streets and the interference which would result to their normal functioning, which would be detrimental to highway safety and the amenity of residents.
22. The precise degree of flood risk is unclear and disputed. Photographs showing that the proposed car park land was recently flooded were submitted. However, they do not provide substantial evidence that this is a regular

occurrence. The planning officer's report concluded that flooding was an occasional occurrence and would be unlikely to affect the overwhelming majority of functions at the Hall. In the absence of any objection from the Environment Agency or any material classification that the land is at frequent risk of flooding, I find no reason to disagree with the Council. Consequently, this matter alone would be insufficient to justify refusing permission.

23. Being close to the river and un-surfaced, the proposed car park could, at times, be rendered difficult to use through being waterlogged or excessively soft. In addition, even if it were possible to use the land in such a condition, regular use could lead to erosion of and damage to the surface of the field. It may also render it unusable at times by heavier service vehicles such as those required for the erection of a marquee. There is no clear evidence on this matter, and it may be capable of resolution through further discussion and by means of imposing a planning condition. However, the absence of clear information at present leaves justifiable doubt. Consequently, it may not indicate an outright refusal of permission, though if not capable of being resolved it could present an insurmountable problem.
24. The fourth main issue arises from the concerns of local residents and the Parish Council about the impact of noise arising from the proposed use upon their residential amenity. There would be two significant likely causes of noise. The first would be noise emanating from the events themselves. This could arise from external or amplified music, use of fireworks and the like. The first matter has been examined by the Council's Environmental Health Department in the context of the proposed method of operation set out by the Appellant.
25. The Appellant has indicated that there would be no music played outside the building, either live or amplified. This could be secured by a planning condition. There would be amplified sound in the marquee, but only for wedding speeches and the amplification would be limited by permanent means. Amplified and live music would be played within the Hall itself. That too would be subject to limitations within the equipment or system. Given the construction of the building, the configuration of openings in it, and its distance from neighbouring houses, the Council are satisfied that the noise emanating from the building would not give rise to undue noise or disturbance to nearby residents. This has been professionally considered and, in the absence of any substantial evidence to the contrary I accept that conclusion as being correct⁴.
26. Noise arising from the use of fireworks could be controlled either by simply precluding their use through a planning condition, or by limiting the occasions on which they could be used. Furthermore, the duration of such noise is often quite short.
27. The other likely source of noise from the proposed use would emanate from the activity associated with the departure of guests. From the details provided by the Appellant, this is likely to occur in most instances between 2300hrs and midnight. It is also likely that most guests would leave within a short time period at the end of an event. This would result in up to 80 vehicles being entered, started and driven off the land late at night. Whilst the car park would be some distance from nearby houses, such noise, in the open air at that

⁴ In reaching this conclusion I have taken account of the article submitted entitled "A Practical Evaluation of Objective Noise Criteria used for the Assessment of Disturbance due to Entertainment Music". However, I consider that the Council were entitled to follow the guidance set out in Planning Policy Guidance 24: Noise

time of day would be likely to carry and give rise to some disturbance in a quiet rural village. This would be the case not only within the appeal site but along the adjacent roads. This would detract from residential amenity to some degree.

Conclusions

28. The objective of seeking to preserve a historic building by finding a new and compatible use accords fully with national policy as set out in PPS5. The use proposed would, of itself, be acceptable in principle because it would not harm the fabric of the listed building. It would, however, detract from the setting thorough the need to use a marquee for some functions. This would also detract from the appearance and character of the Registered Garden in which it would be located. Given the probability that such a structure would be present for up to 23% of each year, I consider this harm to be sufficiently serious to justify refusal of permission. Added to that, the presence of the car park within the setting of the Listed Building and adjacent to the Registered Garden would also seriously detract from the character and appearance of these heritage assets for a large percentage of time.
29. In addition I remain unconvinced that the car park, being un-surfaced, unlit, and possibly quite wet at times, would not become visually unattractive with regular use and, perhaps unusable at times. Also, the departure of vehicles late at night from this area would give rise to some noise disturbance to nearby residents in marked contrast to the low ambient noise levels associated with the rural setting.
30. The harm created by the proposed use would, in my judgement, outweigh the benefits derived from it in planning terms. Accordingly, the appeal fails and planning permission will not be granted.

Appeal 2: APP/E2530/A/11/2149199

31. The proposed track would lead from an existing, but improved access from Bridge Street. The first 15m from the entrance would be constructed as a bed of graduated compacted limestone graded from 25mm to fine grain. This bed would be between 120mm and 150mm thick and it would follow a line shown on drawing no. MSP.538/002. It would be some 4.5m wide. The remainder of the track would be un-surfaced and cross the field to an area demarcated for car parking associated with the proposed use of Marston Hall.
32. This proposal is not the first one for a driveway on the appeal site. However, it overcomes some of the objections of earlier proposals through its means of construction which would reduce the visual impact in the landscape. The access which would have 3m x 140m sight line northbound and 3m x 90m sightline southbound. The existing field access would be improved by the construction of a bell-mouth. Subject to vegetation within the sightlines being cleared down to a height of 600mm the Highway Authority have raised no objections to the access.
33. The track as now proposed would have an appearance not unlike farm tracks over some of its length. The un-surfaced section would be discernible in the field only if demarcated or through wear arising from its use. It could, therefore, have a relatively low-key visual impact depending on the degree of traffic using it and the associated wear.

34. The Appellant has sought to separate the use of the track from this application. However, for reasons set out in paragraph 2 above I consider this to be inappropriate. Generally, new tracks or driveways are not permitted in the countryside unless there is a demonstrable need for them. This is to preserve the countryside's rural appearance.
35. No other purpose has been suggested for creating the access track and improving the existing access from which it would lead other than to give access to the parking area required for the uses proposed in the Hall. I have decided that those uses, as currently proposed, would be unacceptable. Consequently, the proposed track and enhanced entrance would have no purpose and would, therefore, be an unnecessary and unacceptable intrusion into the rural landscape.
36. For the above reasons I conclude that the appeal should fail and planning permission will not be granted.

Keith Turner



Appeal Decision

Site visit made on 1 August 2011

by **Julia Gregory BSc (Hons) BTP MRTPI MCMi**

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

Decision date: 10 August 2011

Appeal Ref: APP/E2530/A/11/2147323

**Spring Croft, Gonerby Road, Gonerby Hill Foot, Grantham, Lincolnshire
NG31 8HU**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Seymour Bailey against the decision of South Kesteven District Council.
 - The application Ref S10/1412/FULL, dated 16 June 2010, was refused by notice dated 26 August 2010.
 - The development proposed is a new detached family dwelling.
-

Decision

1. The appeal is allowed and planning permission is granted for a new detached family dwelling at Spring Croft, Gonerby Road, Gonerby Hill Foot, Grantham, Lincolnshire NG31 8HU in accordance with the terms of the application, Ref S10/1412/FULL, dated 16 June 2010, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 073-P01, 073-P02, 073-P03, 073-P04, 073-P05, 073-P06, 073-P07, 073-P08 and 073-S01.
 - 3) The dwelling hereby permitted shall not be occupied until the access and turning space have been completed in accordance with the approved plan 073-P03 and these shall be retained for that use thereafter.
 - 4) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
 - 5) The dwelling hereby permitted shall not be occupied until surface and foul water drainage works have been implemented in accordance with details that have been submitted to and approved in writing by the local planning authority.
 - 6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no extension, enlargement or other alteration to the building shall be carried out.

- 7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no window, dormer window or rooflight other than those expressly authorised by this permission shall be constructed.
- 8) Before the first occupation of the building hereby permitted the windows at first floor on the north east facing elevation shall be fitted with obscured glass and shall be permanently retained in that condition.

Main Issue

2. From my site visit and having considered all the representations, including from local residents, I consider the main issue to be the effect on the character and appearance of the area.

Reasons

3. Local Development Framework for South Kesteven Core Strategy (CS) policy SP1: Spatial Strategy specifies that the majority of new development will be focussed in Grantham. New development will be considered on appropriate sustainable and deliverable brownfield and appropriate greenfield sites, sufficient to ensure achievement of growth targets. The dwelling would be located within Grantham urban area, which the Council considers to be a more sustainable settlement area.
4. Although part of the site was previously access to boarding school accommodation at Kings School, that access is overgrown to the extent that it is part of the natural landscape. The site is mostly the garden of Spring Croft. The site does not therefore comprise brownfield land. Nevertheless, this does not preclude development because CS policy SP1 allows for greenfield development that is appropriate.
5. CS policy EN1 seeks to ensure that development is appropriate to its context. It sets criteria against which development proposals are to be assessed in the interests of the protection and enhancement of the character of the district. *Backland Development Supplementary Planning Guidance* gives advice on general considerations in respect of such development but does not contain a presumption against such development.
6. PPS1: *Delivering Sustainable Development* and PPS3: *Housing*, which are statements of national policy, both promote good design which is appropriate to its context. Although the Government has recently issued the Draft National Planning Policy Framework document for consultation, which is intended to supersede those Policy Statements, as this document is still in draft form and subject to change, I have accorded its policies little weight.
7. The dwelling would be sited to the rear of properties in Gonerby Road. The site is unusual for a backland plot because there is extensive open space to the east fronting Hazelwood Drive. The dwelling would face that land rather than the backs of dwellings. It would have a well articulated design with varied roof line which would break up its substantial length and a projecting two storey gable end similar to properties in Kings Gardens.
8. It would relate well to the height of the adjacent properties by stepping down from two storeys in height similar to Kings Gardens properties to single storey

where closest to frontage bungalows. Whilst the dwelling would be sited so that its front elevation would be much further forward than the rear elevation of No 4 Kings Gardens, the positions of rear elevations in that part of the estate are not so regular that this would appear incongruous. The dwelling would be well separated from its nearest neighbour so that it would not appear excessively dominant against it. It would, when viewed from the open space, appear a well integrated extension of the Kings Gardens development.

9. The plot size would be substantial and similar to those in Kings Gardens and the adjacent bungalow at Pyketts Lodge. There would be significant amount of space around the dwelling so that it would not be cramped on its plot or be unacceptably close to neighbouring properties. The retained rear garden at Spring Croft would be more modest than others in Gonerby Road but would not be so small as to be unacceptably modest or harmful to the character or appearance of the area.
10. The front elevation would not be much further forward than the side elevation of Spring Croft, which is mostly screened from view from Hazelwood Drive. The dwelling would be appropriate in scale, siting and design to its context and would provide an interesting front elevation where it would be open to public view. There would be some screening by boundary trees and trees on the open space.
11. The side elevation of the dwelling would be visible from Gonerby Road down the drive between Spring Croft and Pyketts Lodge, but high gates would be relocated which would screen views somewhat. The view in that direction is currently towards dwellings in Kings Gardens. The addition of one dwelling closer to Gonerby Road, but still a substantial distance away, would not be harmful to the character or appearance of the area.
12. I conclude that the development would be appropriate to its context and would not harm the character or appearance of the area. It would comply with CS policies SP1 and EN1, the SPG and national policy in this regard.

Other Matters

13. The dwelling would be sited well away from frontage bungalows in Gonerby Road. The rear elevation of the dwelling would face towards the common boundary with Tree Tops. At its closest, the dwelling would be some 15.1m away from that boundary, but mostly it would be some 16.9m from the boundary. Although there would be windows in the first floor rear elevation of the dwelling, they would be far enough away that privacy would not be unacceptably compromised. Also because of the separation distance, overshadowing would not be caused. Although upper parts of the dwelling would be seen from the garden, the dwelling would not be overbearing on outlook from that property or its garden, even if the boundary hedge were not retained.
14. The dwelling would be located adjacent to the common boundary with No 4 Kings Gardens but there would be some 3.4m to the boundary. Although it would project in front of the rear elevation by a significant distance, because it would be away from the common boundary and that dwelling is also away from the boundary, I consider that this would not be oppressive on outlook from the house and garden. Because of the distance from the boundary and the existing high hedge, overshadowing would not be significantly worse than existing.

15. There would be windows at first floor in the side elevation facing No 4 Kings Gardens but these would all be obscure glazed preventing overlooking. Front elevation windows would face open space and not No 4. For these reasons, privacy would not be harmed. I conclude that the development would not be harmful to the living conditions of the occupiers of adjacent dwellings and would not be contrary to CS policy EN1 or the SPG in this regard.
16. I am satisfied that the development would not set an unacceptable precedent since I have found that it complies with local and national planning policy. For the reasons given above, subject to conditions, I conclude that the appeal should be allowed.

Conditions

17. I have considered necessary conditions. Materials should be controlled in the interests of the character and appearance of the area. Development should be carried out in accordance with the approved plans, for the avoidance of doubt and in the interests of proper planning. The access and turning space should be implemented prior to occupation and retained for that purpose in the interests of highway safety. The drainage should be approved in the interests of providing satisfactory development and preventing the increased risk of flooding. I consider it essential to restrict certain permitted development rights to protect neighbours' living conditions at No 4 Kings Gardens.

Julia Gregory

INSPECTOR



Appeal Decision

Site visit made 4 August 2011

by **Richard High BA MA MRTPI**

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

Decision date: 25 August 2011

Appeal Ref: APP/E2530/A/11/2151489

Land adjacent to 47 Pond Street, Great Gonerby, Grantham, Lincolnshire, NG31 8LJ

- 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 Mr P Eaton, against the decision of South Kesteven District Council.
 - The application Ref S10/1946/OUT, dated 5 August 2010, was refused by notice dated 6 January 2011.
 - The development proposed is part demolition of existing dwelling and ancillary buildings, outline approval for the erection of 4 detached 2 storey dwellings all with car parking spaces.
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Clarification

1. This is an outline application which also includes details of access, layout and scale.

Decision

2. The appeal is dismissed.

Main issues

3. The main issue is the effect of the proposed development on the character and appearance of the area including the Great Gonerby Conservation Area and the setting of Elms Farmhouse which is a Grade II listed building.

Reasons

4. Policy SP1 of the Core Strategy adopted in 2010 identifies Great Gonerby as a Local Service Centre. The strategy provides for limited development in Local Service Centres with preference to be given to brownfield sites within the built up part of the settlements (which do not compromise the nature and character of the village) and specifically allocated sites. Within Great Gonerby there are no allocated sites or identified brownfield land and in principle, notwithstanding the alterations to PPS3 in 2010 which removed garden land from the definition of brownfield land, development of garden land may be acceptable subject to other policies. The appeal site is partly brown field as the development would replace the existing dwelling at 47 Pond Street but most of the development
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would be in the garden shared between Nos.47 and 49. I share the view expressed by the local planning authority that the site could not properly be regarded as an infill site as provided for by Policy H1 of the Core Strategy as it is not a gap in a continuously developed frontage and the development would intrude into an open area.

5. The site lies just outside the Great Gonerby Conservation Area, which extends down the west side of Green Street to a point opposite the north west corner of the appeal site. The character of the Conservation Area is defined by the number of buildings of historic interest in the central part of the village and their arrangement in the street scene. Substantial stone walls along the highway frontage such as that on the west side of Green Street also make an important contribution to this character.
6. The wall on the northern boundary of the appeal site is similar to that in Green Street and makes a significant visual link between Green Street and Pond Street. Views into or out of conservation areas can make an important contribution to their character and I do not accept the appellant's view that the wall has no significance in relation to the Conservation Area because it is outside of it. I acknowledge that there is some dispute whether the wall is original or rebuilt and there is no conclusive evidence on this point. It is clear that at least part of it was reduced in height when Belvoir Gardens was developed and that the detailing of the top appears different from the walls in Green Street and Spring End. However there is no doubt that it is an important visual feature in the street scene which complements the character of the Conservation Area.
7. 47 Pond Street is attached to 49 Pond Street, also known as Elms Farmhouse, which is a Grade II listed building. Both dwellings are in the same ownership and the large shared garden forms a substantial open space between the Conservation Area and the more recent development in Belvoir Gardens and Elms View. As such it makes an important contribution to the setting of the listed building and the street scene. Although the wall on the Pond Street frontage relates to the curtilage of 47 Pond Street rather than 49 there is no physical division between these plots. I cannot determine from the conflicting evidence before me whether the wall is curtilage listed as defining the original boundary of No.49, but it is clear that it also contributes to the setting of Elms Farmhouse.
8. Part of No.47 would be demolished to make way for the proposed development which would extend across the northern part of the garden along the Pond Street frontage. The height of the wall would be reduced to 600mm in response to the views of the highway authority regarding visibility, with the creation of 2 gaps in it to provide vehicular access and 3 smaller gaps for pedestrian access. The reduced height and fragmentation of the wall would detract from the street scene, views out of the Conservation Area and the setting of Elms Farmhouse.
9. The existing view from Green Street towards Elms Farmhouse through the trees in the garden is important to the street scene and provides a spacious setting for the listed building. I accept that the overall effect on this view and the overall character of the area would clearly depend somewhat on the design of the dwellings which is a reserved matter and that the proximity of the

dwellings to the highway would reflect the alignment of 43 and 43A Pond Street.

10. However, the dwelling on Plot 4 would be only about 2m from the low brick wall with railings that runs round the corner from Pond Street to Belvoir Gardens. I acknowledge that Elms Farmhouse would be visible from the corner of Spring End and Green Street past the gable end of the dwelling on Plot 4. However, this view would be compromised by the loss of openness on the corner, and from Green Street, within the Conservation Area, this dwelling would cut off the view of Elms Farmhouse and the dwelling on Plot 3 would be intrusive. Although the trees on this part of the site are not individually significant they contribute to the semi-rural character of the corner site. Their loss and replacement with the dwellings on plots 3 and 4 would be detrimental to the street scene.
11. I accept that the development would make more efficient use of land and that the density of the development is not high in relation to normal contemporary standards, but it is the effect of the relatively tight arrangement of the four dwellings on the open character of this part of the village that would be harmful.
12. For these reasons I conclude that the proposed development would fail to preserve the character or appearance of the Great Gonerby Conservation Area and would be harmful to the setting of Elms Farmhouse. The proposal would not accord with the guidance in *PPS5 Planning for the Historic Environment* and would be contrary to Policy EN1 of the Core Strategy as it would not respond to the local distinctiveness and historic character of this part of the village. It would also fail to comply with Policy SP1 of the Core Strategy.
13. I have noted the concerns expressed regarding the drainage of the site and the presence of a well at the western end. However, this would not be a reason to withhold planning permission and would need to be addressed through Building Control if the development was permitted.
14. I have also considered the other matters raised by local residents. Although the turn into Belvoir Gardens from Pond Street is quite tight, I find no reason to object to the proposals on highway safety grounds. Also while I understand the concerns of the occupants of the properties on the north side of Pond Street regarding loss of outlook, this would not be a reason for resisting the proposals and the distance between the existing and new dwellings would prevent any harmful loss of light or privacy
15. I have taken into account all the other matters that have been put before me and found no reason to depart from my conclusion that the appeal should be dismissed.

Richard High

INSPECTOR



Appeal Decision

Site visit made on 15 August 2011

by **John G Millard DipArch RIBA FCI Arb**

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

Decision date: 31 August 2011

Appeal Ref: APP/E2530/A/11/2149755

St Nicholas, Priory Road, Stamford, Lincolnshire PE9 2EU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by the executor of Blanche Lister deceased against the decision of South Kesteven District Council.
 - The application Ref: S10/2185/FULL dated 21 September 2010 was refused by notice dated 9 March 2011.
 - The development proposed is the erection of 2 pairs of semi-detached dwellings.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are the effect of the proposal on, firstly, the settings of the adjoining scheduled ancient monument and nearby Grade I listed building, secondly, the archaeology of the site, thirdly, the character and appearance of the area and, fourthly, highway safety.

Reasons

3. The appeal site is a parcel of residential land on the south side of Priory Road, within the built confines of Stamford. It presently contains a modest mid-20th century bungalow, with some attic accommodation, positioned towards the middle of the plot. The site also contains a significant number of mature trees and shrubs, mostly along its eastern and southern boundaries. There is no footway on this side of Priory Road and the plot boundary is defined by a stone wall separated from the highway by grass verges and topped by mature shrubbery. In the north-east corner of the site is a detached wooden outbuilding and the back garden slopes gently down in the direction of the River Welland, about 150 metres or so to the south.
 4. Wrapping around the plot on the south and east, and extending down to the northern bank of the river, is a scheduled ancient monument (National Monument No 22614) that comprises the remains of St Leonard's Priory and includes the Grade I listed standing remains of the mostly 12th century Priory Church about 85 metres due east of the appeal site.
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5. Adjoining the site to the west is an inter-war development of small semi-detached two-storey dwellings on narrow plots, built relatively close to the road with shallow front gardens. To the rear of these are allotment gardens sloping gently down towards the river. On the opposite side of Priory Road is Priory Gardens, a late 20th century development of two storey detached houses orientated away from Priory Road behind a continuous stone wall and established tree and shrub planting. Further east and facing directly towards the scheduled monument are three older bungalows set back from the road in generous plots.
6. The proposal is to demolish the existing bungalow and to erect two pairs of 2½-storey semi-detached five bedroom three bathroom dwellings, each with two off-street parking spaces in front, with one highway access serving each pair. It is suggested that most of the trees along the southern and eastern boundaries would remain although, in the absence of a full arboricultural method statement, the extent to which this might be achieved is unclear. A mature tree near the south-west corner of the bungalow would be removed, together with a line of leylandii trees along the western boundary and the shrubbery behind the front boundary wall.

Settings of the Heritage Assets

7. Although no description of the significance of the adjacent heritage assets has been provided, such as is sought by Policy HE.6 of Planning Policy Statement 5 – *Planning for the Historic Environment* (PPS5), it is clear that this monastic site was once prominently located in the rural landscape, well away from the town. Whilst later development, particularly in the 20th century, has extended ever closer, especially to the north and west of the site, undeveloped land to the south and south-west helps to preserve some semblance of its historic setting and prominence within the landscape.
8. The appeal site contains the closest built development to the west of the scheduled monument. From what I saw during the course of my site visit, the existing bungalow, by reason of its modest size and discreet location away from its plot boundaries, shows appropriate respect for its historic neighbours, creating a buffer between the semi-rural openness of the scheduled site and the more urban character of the development westwards along Priory Road. As such it contributes in a positive way to the settings of both the scheduled monument and the Grade I listed building.
9. PPS5 Policy HE.10 states that applications for development that would affect the setting of a heritage asset should be treated favourably if those elements that make a positive contribution to the setting would be preserved. It goes on to indicate that, where a proposal would not achieve this, any harm should be weighed against the wider benefits of the application. The proposal in this case would substantially increase the amount of built development, hard surfacing and car parking on the site, creating a far more urban character that presently exists.
10. Whilst many of the trees along the southern and eastern plot boundaries could remain, these are mostly deciduous and would not be effective in concealing the scale and bulk of the development. Furthermore, the present shrubbery that largely screens the existing bungalow from the road would give way to parked cars, revealing fully to passers-by the scale of the development and its urban character.

11. It is therefore my conclusion, on the first main issue, that the proposed development, by reason of its scale and intensity, would cause material harm to the settings of the adjacent heritage assets. As there are no identified public benefits to weigh against that harm, I find the proposal unacceptable and in conflict with the objectives for protecting the historic environment set out in PPS5 and Policies 26 and 27 of the adopted East Midlands Regional Plan 2009.

Archaeology of the Site

12. The Senior Historic Environment Officer of Heritage Lincolnshire considers that the appeal site probably once formed part of the Priory enclosure, because of which previously undisturbed parts of the site offer a high potential for buried remains of considerable archaeological interest to be encountered during development. In such circumstances, Policy HE.6 of PPS5 advises that applications for planning permission should include, as a minimum, an appropriate desk-based assessment or, where this is considered to be insufficient to properly assess the interest, a field evaluation.
13. In this case, because the extent and nature of any archaeological remains encountered could materially impact upon the overall acceptability of the scheme, the Council's specialist advisors recommended that two trial trenches be excavated and the findings submitted to the Council before determination of the planning application. This advice was not, however, accepted by the appellant who contends that, having been previously developed, the site is not unduly sensitive and that a 'watching brief' during development would suffice.
14. Because of its physical relationship with the adjacent scheduled monument, I share the specialist archaeologist's view as to the sensitivity of the site and consider that, in order to satisfy the PPS5 requirement, a pre-determination investigation is needed. Accordingly, as one has not been undertaken, I conclude that the proposal is in conflict with Policy HE.6 of PPS5 and that the grant of planning permission would be premature.

Character and Appearance of the Area

15. Priory Road contains a variety of dwelling types in a range of architectural styles and it is, in some respects, this variety that determines the essential character of the area. However, from Cherryholt Road eastwards, by far the strongest influence on character is the largely unbroken run of 40 near identical pairs of modest inter-war semi-detached two storey houses on the south side of the road, with their small front gardens, shared front-facing gables and deeply recessed entrance doors. Development on the north side is generally set back behind stone walls and established foliage, whilst the Priory Gardens development directly opposite the site turns its back almost completely on Priory Road.
16. That the dwellings proposed would be semi-detached is not in question but, that apart, they would have little in common with their 1930s neighbours. They would be larger in frontage, depth and height, flat fronted and with their wider and shallower pitched gables facing the rear. Materials are not shown on the submitted plans but are described briefly in the Design Statement as local red facing brickwork with brickwork banding, soldier arches (shown on the drawings as flat splayed arches) and stone cills. Roofs would be mock Welsh slates whilst the material for the sash windows and Victorian pattern doors is not specified. Overall, I can find no obvious rationale for the particular design proposed.

17. An unfortunate feature of the development is the concentration of eight (or possibly more) parked cars that would occupy the whole of the space between the dwellings and the front boundary wall. In combination with the bulk of new building proposed, this would impart a more urban character to the development than is appropriate for the locality to the detriment of the established character of the area.
18. A key objective of Policy EN1 of the adopted South Kesteven Local Development Framework Core Strategy is the conservation and enhancement of the visual quality and amenity of the area's built environment by, among other things, seeking to ensure that built development reflects the general character of the area through layout, siting, design and materials. For the reasons outlined above, my conclusion on this issue is that the development would not sit comfortably within its surroundings and would thus not accord with the Policy EN1 objective.

Highway Safety

19. Included in the proposal is the partial realignment of the front boundary wall, together with the repositioning of the existing access and formation of an additional one. Precise details of the realignment are not given but I have before me plans indicating sight lines of 2m x 68m (west) and 2m x 90m (east) from the mid point of the more westerly of the two accesses and 2m x 70m (west) and 2m x 90m (east) from the more easterly one. Priory Road has a carriageway width in front of the site of about 5 metres and a grass verge averaging about 2m wide. There is street lighting and the road is subject to a 30 mph (48 kph) speed limit. There is a roundabout approximately 200 metres to the east of the site.
20. I saw at the site visit that Priory Road carries relatively heavy traffic, at times with almost uninterrupted streams of mostly private cars for several minutes. Speeds generally seemed to be within the legal limit. Both the DETR Design Manual for Roads and Bridges (DMRB) and the Department for Transport's Manual for Streets (MfS) advise that visibility splays should be measured from a point 2.4 metres back from the edge of the carriageway although MfS suggests that this may be reduced to 2.0 metres in some lightly trafficked situations. Priory Road, however, does not accord with any definition of 'lightly trafficked' and the appropriate distance is therefore 2.4 metres.
21. On this basis, and in light of what I saw at the site visit, I am not persuaded that acceptable vision splays can be achieved without more radical realignment of the boundary wall. Accordingly, and in the absence of detailed information showing how sightlines in accordance with DMRB and MfS requirements can be achieved, I am led to conclude that the intensification of vehicular activity that would be generated by the proposed development would add unacceptably to the risk faced by drivers using this part of Priory Road.

Other Considerations

22. Occupiers of dwellings immediately to the west of the appeal site are concerned that the new development would appear overbearing when seen from their modest back gardens and result in a reduction in the level of privacy they presently enjoy. These gardens are significantly below the level of the appeal site and the new development would be set back well behind the line of the

neighbouring dwellings. Accordingly, as seen from the garden of, in particular, No 40 Priory Road, the most easterly of the new dwellings would be, in effect, three storeys high and just a few metres away, appearing oppressive and overbearing, and creating the perception of the garden being overlooked.

23. There would be just one first floor bathroom window in the flank wall of the new dwelling facing the neighbouring properties and as this could be conditioned to be obscure glazed and fixed shut, I am satisfied that there would be no actual overlooking. The building would, however, be a dominant and overbearing feature as seen from the near neighbours' gardens causing material harm to their living conditions and adding weight to my conclusions on the main issues.
24. The occupiers of a dwelling in Priory Gardens have raised concerns regarding the obstruction of their present view southwards towards Burghley Park, the potential for overlooking from the new dwellings and the creation of a dominant and oppressive outlook from their property. Neither national nor local planning policies, however, seek to protect private views from encroachment and I can therefore attach only minimal weight to this concern. As regards overlooking and outlook, I note that there would be a separation distance of some 38 metres between the Priory Gardens property and the proposed new dwellings, in which case I consider that any harm caused by the development would be insufficient to justify withholding planning permission.

Conclusion

25. For the reasons given above, it is my overall conclusion that, because of the harm it would cause to the settings of the scheduled ancient monument and Grade I listed building, to the archaeology of the site, to the character and appearance of the area and to highway safety, the proposal before me is unacceptable. I have considered all other matters raised but found nothing that changes the balance of my decision that the appeal should be dismissed.

John G Millard

INSPECTOR



Appeal Decision

Site visit made 4 August 2011

by **Richard High BA MA MRTPI**

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

Decision date: 17 August 2011

Appeal Ref: APP/E2530/A/11/2148099

**Land to rear of 62 and 64 Manthorpe Road, Grantham, Lincolnshire,
NG31 8DN**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs M Bailey, against the decision of South Kesteven District Council.
 - The application Ref S10/2593/FULL, dated 17 November 2010, was refused by notice dated 3 February 2011.
 - The development proposed is the erection of a detached dwelling and garage.
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Decision

1. The appeal is dismissed.

Main issue

2. The main issues are the effect of the proposed development on:
 - 1) the character and appearance of the area and
 - 2) the living conditions of the occupants of 60A, 62 and 64 Manthorpe Road with regard to visual impact.

Reasons

Character and appearance

3. Outline planning permission has been granted for a dwelling on the appeal site subject to the approval of reserved matters and other conditions (ref: S10/0395). Condition 5 relating to the scale and appearance of the dwelling requires that the maximum ridge and eaves heights should not exceed those shown on the indicative drawing no.MSP.533/001 which accompanied the application. The drawing indicated a ridge height of 6.4m above finished floor level whereas that now proposed would be 6.86m above finished floor level.
 4. The land falls significantly from west to east across the width of the site so that the floor slab level of 62 Manthorpe Road on one side is about 3.1m higher than that of 60A Manthorpe Road on the other. The proposed dwelling would be cut slightly into the slope so that the finished floor level would be about 0.8m above that at No.60A and about 2.3m below that of No.62.
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5. Nos.62, 64 and 60A are all bungalows with a relatively shallow roof pitch giving them a low visual profile. The proposed dwelling would be 1.5 storeys high with first floor accommodation in the roof space. This would make the dwelling appear significantly bulkier and higher than its neighbours. The ridge line would be 2.6m higher than that of No.60A and only about 1m lower than that at No.62. Moreover the gable extending forwards at the front would have a higher eaves level than the main part of the dwelling which would give the appearance of a two storey rather than 1.5 storey dwelling. The garage in front of it would not significantly alleviate this effect. While I acknowledge that the finished floor level could be reduced, by cutting further into the slope, this would not alter the basic form of the dwelling which would be different in scale from its neighbours and would visually dominate No.60A.
6. For this reason I find that the proposed development would fail to respect the character and appearance of the area and would be contrary to Policy EN1 of the Core Strategy of the Local Development Framework for South Kesteven 2010. While I accept that this is a high level policy, the criteria it sets out for new development also clearly relate to individual proposals as well as broad allocations.

Living Conditions

7. The height and depth of the building, particularly the high eaves and ridge of the forward projecting gable, would make the side elevation a very prominent feature in the outlook from the rear of 62 Manthorpe Road and to a lesser extent from No.64. At a distance of only about 12m this would be sufficiently overbearing to detract from the living conditions there. The height of the building above No.60A would be more dominating in any outlook from the side elevation there because of the difference in levels and the proximity of the building. However I was unable to see on my visit whether there are any windows in the side elevation there and in view of my other findings my decision has not turned on this consideration.
8. I have noted the concerns of the occupants of Nos. 55 and 56 Langford Gardens, but the eaves height of the new house would be lower to the rear and the highest part would be about 30m away from these dwellings. At this distance the new house would not result in unacceptable harm there and suitable boundary treatment could be secured by the imposition of an appropriate condition.
9. I conclude on this issue that the proposed dwelling would be harmful to the living conditions at 62 Manthorpe Road and for this reason also would be contrary to Policy EN1 of the Core Strategy.
10. I have considered all other matters which have been raised and conclude that the appeal should be dismissed.

Richard High

INSPECTOR



Appeal Decisions

Site visit made on 23 August 2011

by **John Murray LLB, Dip.Plan.Env, DMS, Solicitor**

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

Decision date: 5 September 2011

Appeal A: APP/E2530/C/11/2152872

Odd House Farm, Holme Lane, Claypole, NG23 5AP

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr James Allen against an enforcement notice issued by South Kesteven District Council.
- The Council's reference is ENF10/0135/20.
- The notice was issued on 11 April 2011.
- The breach of planning control as alleged in the notice is without the benefit of planning permission, the making of a material change in the use of an agricultural building (13.7m x 32m with ridge height of 6.7m) on the Land to a use to house livestock.
- The requirements of the notice are to cease the use of the agricultural building (13.7m x 32m with ridge height of 6.7m) on the Land for housing livestock by removing cattle from within the agricultural building and remove the cattle food from the storage area (on a hard-standing) adjacent the agricultural building as shown in the approximate position cross-hatched on the attached plan.
- The period for compliance with the requirements is 3 calendar months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The enforcement notice is quashed.

Appeal B: APP/E2530/A/11/2150755

Odd House Farm, Holme Lane, Claypole, NG23 5AP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr James Allen against the decision of South Kesteven District Council.
- The application Ref S10/1804/FULL, dated 16 December 2010, was refused by notice dated 1 March 2011.
- The development proposed is described as the "retention of agricultural building and change of use to house livestock and erection of additional livestock building and food storage".

Summary of Decision: The appeal is dismissed.

APPEAL A

The enforcement notice

1. The notice refers to a breach of planning control under section 171A(1)(b) of the 1990 Act. However, that concerns failure to comply with conditions or limitations attached to planning permissions, rather than operational development or material changes of use. The appropriate provision is section

171A(1)(b). Whilst that error could be corrected without injustice, the notice contains a more fundamental defect.

2. In October 2008, an application Ref S08/AG/10/21 was submitted to the Council under the Town and Country Planning (General Permitted Development) Order 1995 (the GPDO)¹ for a determination as to whether its prior approval would be required for the siting, design and external appearance of an agricultural storage building on the appellant's land. The Council decided that it did not require the formal submission of details and accordingly, had the development been undertaken in accordance with the details submitted², it would have constituted permitted development (PD). However, the submitted plan showed the building located to the south of the access track, whereas it was actually constructed to the north.
3. Furthermore, the GPDO provides that such development will not be PD if it consists of the erection of a building to be used for the accommodation of livestock, where the building would be within 400m of the curtilage of a "protected building", which includes a dwelling outside the agricultural unit and outside any other agricultural unit. The building in question is less than 100m from the curtilage of an existing dwelling and a barn which is under conversion to a dwelling with the benefit of planning permission. Both of these are outside any agricultural unit. Whilst the building the subject of the notice might be suitable for general agricultural storage purposes, it appears to have been designed and constructed primarily to house livestock. Indeed, the appellant's statement indicates that the building was located to the north of the access track to enable easy observation of animals within it.
4. In the circumstances, the breach of planning control is not the change of use of an authorised building as, given its location and purposes, the building constitutes unlawful operational development. This error in the description of the breach could be corrected, but this would necessitate consideration of the appropriateness of the requirement. The notice merely seeks cessation of the use, rather than removal of the unlawful building. If the notice were varied to demand demolition of the building, this would clearly prejudice the appellant, who has not had the opportunity to address that more serious requirement. However, if the requirement were left as it is, then this would constitute under-enforcement and, on compliance with the notice, planning permission would be granted for the building³.
5. On the evidence before me, if a prior notification application in respect of a general agricultural storage building (without livestock) in this location were submitted, the Council probably would not require the formal submission of details. However, in that case, the resulting permission under the GPDO would be subject to conditions, such as the requirement to remove the building if its use for the purposes of agriculture ceases within 10 years⁴. By contrast, the permission granted as a result of under-enforcement would be unconditional and I cannot be satisfied that correction of the notice would not result in injustice.
6. I am satisfied that the allegation in the notice represents a fundamental misunderstanding, which cannot be corrected without injustice. Accordingly, I

¹ GPDO, Schedule 2, Part 6, Class A

² GPDO, Schedule 2, Part 6, Class A.2(2)(d)(v)(bb)

³ Section 173(11)

⁴ GPDO, Schedule 2, Part 6, Class A.2(5)

will quash the notice and the appeal on ground (a)/deemed planning application does not fall to be considered. Clearly this does not prevent the Council issuing a fresh notice, if that is considered expedient.

APPEAL B

Preliminary matter

7. For the reasons given in relation to appeal A, insofar as the application describes the proposal as being for a change of use, it is incorrect. Furthermore, "retention" of a building is not an act of development, as defined in section 55 of the 1990 Act. Albeit that the proposal is in part retrospective, it can be described as the erection of 2 buildings for accommodating livestock, together with associated food storage.

Main Issue

8. The main issue is the effect of the proposal on neighbours' living conditions in terms of odour, noise and disturbance.

Reasons

9. The fact that a building which is used to accommodate livestock will not be PD if sited within 400m of the curtilage of a protected building does not mean that planning permission should never be granted for such a building. However, it is a clear recognition that these relationships can give rise to conflict.
10. In this case, the existing livestock building is less than 100m from a residential curtilage and, having regard to the measurements on the submitted plans the proposed larger building would be approximately 150 - 160m away. The existing livestock building has given rise to complaints from the nearest residents regarding the smell from the cattle, their waste and their food, which is currently stored in the open, to the east of the existing building, but which would be stored between that and the additional building, if permission were granted.
11. At the time of my visit, I detected no significant odour in the vicinity of the neighbouring dwelling and the partially completed barn conversion, though the wind was blowing in the opposite direction. Even to the west of the existing building, I detected no smell until I was within 20m or so of the building. However, there were only around 30 cattle in the building, which the 'Planning and Environmental Statement' (PES) submitted with the application indicates can house a maximum of 84 cattle. Furthermore, the open food store was virtually empty and the intensity of odour is likely to vary according to weather conditions, the build-up of waste within the building, the amount and type of food stored and the removal of muck and the carrying out of cleaning operations. Sensitivity to this problem will vary from person to person, but from the representations I have seen, and given the proximity of the livestock building, it is likely that the existing development is having a significant impact on neighbours' living conditions. Having regard to the views of the Council's Environmental Health Officer, this can only worsen if a second, larger livestock building is added, which could house a further 106 cattle⁵, well within the 400m radius.

⁵ According to the PES

12. I sympathise with the view that those who choose to live in the countryside must accept some of its less attractive features, such as farmyard smells. However, I note in particular that when the appellant applied for permission for the barn conversion in 2008, the Design and Access Statement (DAS) said: "The yard serves a modest 200 acre farm and is largely redundant, with only two good condition modern buildings having any agricultural use. There is now very little activity on the farmstead except for storage of machinery and some produce. The traditional barn and extensions are completely redundant." In terms of livestock operations, the Council's understanding was that the buildings were only used for lambing sheep once a year.
13. Although no relevant conditions were attached to the permission, against this background, the Council did not anticipate conflict between the proposed residential use and working farm activities and would have expected to be able to control the introduction of new livestock buildings in close proximity to the new dwellings. The statements made in the DAS also reduce the weight I attach to the appellant's indication that if he cannot have the buildings the subject of this appeal, the cattle will be accommodated in existing buildings, closer to residential properties.
14. I note that the appellant's family have farmed in this location for a century or so and Government policy, as expressed in Planning Policy Statement 7 (Sustainable Development in Rural Areas), clearly recognises the important and varied roles of agriculture and the need for farmers to become more competitive and diversify into new agricultural opportunities. However, a balance needs to be struck between the interests of agriculture and the wider rural economy and the interests of the occupiers of newly approved dwellings. The proximity of the existing and proposed livestock buildings to residential premises is likely to result in unacceptable problems in relation to odour and the evidence before me is insufficient to demonstrate that this could be addressed by an 'odour neutralising system'.
15. I acknowledge that the size and configuration of the appellant's holding places constraints on the location of any livestock buildings. On behalf of the appellant, the National Farmers' Union wrote to say that the buildings cannot be located on the far side of the river because of the risk of flooding and that land on the other side of the farm, away from the river, will be farmed by someone else in the near future. Why that land will be farmed by someone else is not clear and, in any event, even within the same field, there may still be scope to site the livestock buildings further from protected buildings, even if 400m cannot be achieved. That is a matter for the appellant and the Council to consider.
16. The evidence before me is insufficient to indicate that noise and disturbance associated with the livestock buildings would be sufficient in itself to justify dismissal. It is likely to be sporadic in comparison to the odour problem. However, it may exacerbate that concern. Similarly, the related problem of flies will aggravate the issue. Clearly, the presence of flies in large numbers cannot necessarily be attributed to the livestock building, as cattle grazing in the fields and other agricultural operations can attract the Yellow Dung Flies found in significant numbers at a neighbour's house. However, that neighbour states that the problem has got significantly worse since the building was constructed.

17. In any event, I conclude on the main issue that proposal would have an unacceptably detrimental effect on neighbours' living conditions in terms of odour. The Council cites Policy EN1 of the Local Development Framework for South Kesteven – Core Strategy, adopted July 2010. Whilst this refers to noise and light pollution, it does not mention odour. Nevertheless, unpleasant smells can clearly have a detrimental impact on living conditions, which is an interest of acknowledged importance, even if it does not give rise to conflict with a specific development plan policy. Having regard to my conclusion on the main issue and all other matters raised, I am satisfied that the appeal should be dismissed.

Decisions

Appeal A: APP/E2530/C/11/2152872

18. The enforcement notice is quashed.

Appeal B: APP/E2530/A/11/2150755

19. The appeal is dismissed.

20. I have taken account of the views of local residents and other interested parties in reaching these decisions.

J A Murray

INSPECTOR