
Appeal Decision

Site visit made on 29 November 2016

by David Richards B Soc Sci DipTP MRTPI

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

Decision date: 22 December 2016

Appeal Ref: APP/Y2810/W/16/3156679

Land to the rear of Elms Farm, Church Street, Crick, Northampton, NN6 7TP

- 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 Delisle Estates Ltd against the decision of Daventry District Council.
 - The application Ref DA/2016/0199, dated 11 March 2016, was refused by notice dated 13 June 2016.
 - The development proposed is erection of 4 dwellings including access and open space (revised scheme).
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 4 dwellings including access and open space at Land to the rear of Elms Farm, Church Street, Crick, Northampton, NN6 7TP in accordance with the terms of the application, Ref DA/2016/0199, dated 11 March 2016, subject to the conditions set out in the schedule attached to this permission.

Main Issues

2. The main issues are: whether the principle of development is acceptable having regard to the policies of the development plan; the effect of the proposal on designated and undesignated heritage assets; and the effect on the provision of open space in Crick.

Reasons

3. The Development Plan includes the saved policies of the Daventry Local Plan 1997 (LP) and the West Northamptonshire Joint Core Strategy (JCS), adopted in 2014. LP saved Policy HS11 (Limited Development Villages - LDVs) sets out criteria for allowing development in LDVs which include the need for such sites to be on land specifically allocated for residential development in the LP, or comprising small scale development within the existing confines of the village as defined on the proposals map; and that it does not affect land which is of particular significance to the form and character of the village. Policy HS16 (Crick LDV) deals specifically with Crick as an LDV and seeks to resist development outside the existing confines of the village. Saved Policy RC1 seeks to secure the provision of open space within residential developments. Saved Policy GN2E resists development that would adversely affect a conservation area or a listed building.

4. Policy SA of the JCS establishes a presumption in favour of sustainable development, requiring Council's to take a positive approach to finding solutions where sustainable development can be approved to secure social economic and environmental conditions of the area. Policy R1 of the JCS is concerned with a spatial strategy for the rural areas. It seeks to secure the identified need for housing in rural area in accordance with a settlement hierarchy. The place of Crick in the settlement hierarchy has yet to be defined, being the subject of Part 2 Local Plans yet to be prepared. Policy R1 sets out criteria for residential development including: (A) an appropriate mix and type of housing, including affordable housing; and (B) that new development should not affect open land which is of particular significance to the form and character of the village. The explanatory text to Policy R.1 states at paragraph 16.16 that it is not the intention of the JCS to prevent additional appropriate development in the rural areas from coming forward. Policies R1(9) and R1(C) also seek to protect and enhance the character of historic buildings and areas of historic or environmental importance. JCS Policy BN5 seeks to conserve and protect designated and non-designated heritage assets and their settings and landscapes. Development proposals should demonstrate an appreciation and understanding of impacts on heritage assets and their settings; and where loss of archaeological remains is unavoidable and justified, provision should be made for recording.
5. The emerging Crick Neighbourhood Plan is at an early stage and attracts limited weight at the present time. It identifies the appeal site as 'Local Green Space' with a key view across the site.
6. The Planning (Listed Building and Conservation Areas) Act 1990 sets out the statutory duty to have special regard to the desirability of preserving a listed building or its setting. Paragraph 134 of the Framework advises that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.
7. With regard to the significance of non-designated heritage assets, paragraph 135 of the Framework advises that effects of an application should be taken into account in determining the application. In weighing applications that affect directly or indirectly non designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
8. The appeal site is an area of open, undeveloped land at the centre of the village. It comprises two large paddocks to the rear of Elms Farm (a large farmhouse and outbuildings at the south-western corner of the site). The eastern boundary of the site fronting a public footpath which runs north-south connecting Oak Lane to Bury Dyke is currently marked by a close boarded fence. Beyond this footpath there is a strip of open land, and then a recent housing estate at Coleman Close and Fallowfields. Until the early 1990s the land adjoined open countryside but the development of the various stages of the estate at Fallowfields has left it at the centre of the village, close to the parish church.
9. The southern site boundary is also marked by a close boarded fence, which separates the site from the cemetery and a footpath providing a link through the churchyard to Church Street. The remaining boundaries along the north

and western part of the site consist of a mixture of close boarded and open treatment separating the site from existing residential properties.

10. The site is relatively flat with the main changes in level being at the south western end where there is a notable change in levels from the modern portal frame building and concrete yard area at the rear of Elms Farm up to the field. The site sits higher relative to dwellings to the north side with the difference in levels being greatest at the north-west end, relative to the Old Orchard. The site as a whole occupies a prominent position in the setting of the Grade I listed Church of St Margaret of Antioch.
11. The proposal is for the development of 4 detached houses to be sited in the north- western part of the site and accessed from Church Street via the existing site entrance. Part of an existing stone barn and modern portal frame building would be demolished to achieve access into the site via the courtyard adjacent to Elms Farm. This private access would separate the four dwellings from the remainder of the site to the east which it is proposed to change to public open space.
12. The dwellings would be two storey, 5 bedroom detached units with attached double garages. They would be of a simple but attractive design and appearance constructed in brick or stone, with tile or slate roofs. The layout would be in linear form along the north-west side of the site.

Principle of development

13. The Council has prepared a district wide statement on housing land availability (HLA) as at 1 April 2016. The Council's position is that it can demonstrate a 5.95 year supply as set out in Table 3 of the statement. This has not been contested by the Appellant.
14. Policy S3 of the JCS confirms that JCS Policy R1 applies where the rural housing requirement is satisfied, as is the case in Daventry at present. Further housing will only be permitted where it can be demonstrated that the provisions of R1 (i-v) been met. However, the housing figures for rural areas are not expressed as ceiling figures. The construction of 4 dwellings on an unallocated site would not breach Policy S3.
15. R1 (i) allows further development only where it can be demonstrated that it would result in environmental improvements on site. To my mind there is a clear environmental benefit from establishing the open space status of key parts of the site through the S106 obligation, thereby ensuring the protection of critical views of the Grade 1 listed Church so criterion (i) is satisfied. While there would also be a visual benefit from the removal of the close-boarded fencing, I attach little weight to it as it appears to serve no other function than to indicate that the site is not currently dedicated open space. With regard to criterion (ii), while it is not suggested that the development is required to support the retention or improvement to essential local services, it would do so in a small way, thereby also contributing to the social and economic dimensions of sustainability. The proposal has been substantially reduced in scale and impact in comparison with an earlier application, which may be seen as a response to community consultation as required by criterion (iii). While this has not overcome objection in the community, it would meet a community objective of delivering public open space which in turn would secure the critical part of the setting of the Church, and the amenity of existing footpaths.

Criterion (iv) is not relevant to the proposal. While the site has clearly not been agreed through an adopted neighbourhood plan (v), it is not necessary to demonstrate compliance with all the stated criteria to demonstrate the acceptability of the development.

16. The Council committee report acknowledges that although the site lies outside the confines of the village as defined on the proposals map of the LP, and could technically be regarded as lying in open countryside, on the ground the site lies within the existing built up area of the village since it lies between the village core and existing more recent housing to the east and north. In this respect a development of 4 houses on the site can reasonably be considered to be small scale and within the confines of the village. With regard to the application of saved Policy HS11 of the LP, the site therefore is compliant with criterion B. I consider below the extent to which it would affect open land which is of particular significance to the form and character of the village (HS11 C).

Effect on Heritage Assets

17. The appeal site lies adjacent to St Margaret of Antioch Church which is a Grade I listed building and is the most important architectural building and landscape feature of the village
18. The Council's conservation adviser commented at the time of the application that *'the scheme will result in harm to the significance and setting of the Grade I listed church as a result of the loss of below ground archaeology and the historic context of the Church within the settlement of Crick. Revisions to the proposal does not completely remove the harm, but it has gone a considerable way to reducing it, to the extent that it is less than substantial and falls to be assessed in accordance with paragraph 134 of the Framework'*.
19. Historic England (HE) commented that it would not be possible to design all the harm out of any development scheme for this site, but *'we do consider that this current application has taken better account of how a more significant reduction in the extent of the proposed development than in previous revisions might reduce the level of impact on heritage significance, and has taken further opportunity for the avoidance of key and well preserved archaeological remains.'*
20. It is common ground that the harm to the setting of the listed building would be less than substantial. While there would be some loss of openness of the field itself, and a consequent change in the character of the land from agricultural to residential/open space, important views of the setting of the Church would be retained in accordance with the diagram in the Crick Village Design Statement. The open view towards the Church formerly obtainable from the Bury Dyke footpath would be reinstated, and to my mind there would be considerable benefit arising from confirmation of the status of the land to be retained as public open space through the S106 obligation. The south elevations of the dwellings would not extend significantly into views obtainable from the open space, and the design of the proposed dwellings is such that they would integrate with the character of existing nearby development. The fine views of the Church obtainable from Church Street would be unaffected.
21. The private access would not obtrude visually in the setting of the Church, provided the southern boundary treatment is sensitively designed, which can be ensured through a landscaping condition. I acknowledge that the access

would pass quite close to the Church and the Sexton's Hut, but it is an existing access, and I do not consider that the level of traffic generated by four dwellings would be such as to materially affect the setting of the heritage asset, or bring about any significant loss of peace and tranquillity in the churchyard.

22. Turning to archaeological impact the Northamptonshire County Council Archaeology Unit commented that the site lies in the centre of the village. Evaluations have confirmed the presence of remains, predominantly of the 11th – 12th centuries, while investigations to the east in 1997 found structural remains of 13th- 14th century date, suggesting a shift or abandonment of parts of the settlement. The site also contains visible earthwork remains indicative of holloways and house platforms, especially in its eastern half. They considered that the proposed development would have a direct impact on the archaeological remains surviving in the north-western part of the site, but the remainder, which contains the best preserved earthworks, would be kept as public open space. They recommended appropriate mitigation in the form of an archaeological excavation of the area subject to development in the event of the development being allowed to proceed, and a suitable management plan for the remainder of the site. This is not an over-riding constraint and is capable of being addressed by the attachment of an appropriate condition.
23. In summary, I do not consider that the harm identified would result in material conflict with JCS Policy BN5 or saved Policy GN2 E of the LP. The harm to heritage assets would be less than substantial, and this is a matter to be weighed against public benefit in the planning balance.

Open space

24. The Council and a number of objectors to this scheme refer to the land as 'open space', described in the Council's committee report as follows:

'The importance of this open space was first recognised in plans drawn up in the 1980s and later reflected in the Daventry Local Plan 1997, where the retained map of Crick clearly shows the whole area of the site as an Open Space outside the development envelope of the village.'

'In any event the Crick Village Design Statement (VDS), which is adopted supplementary planning guidance, identifies the whole of the site as an important Open Space (area E on the VDS Map 1) and states that it should be retained.'

25. In considering the application, the Council recognised that the current proposal would transfer a large proportion of the site as Public Open Space which would provide certainty for the future and would be of benefit to the community.
26. The site is currently unallocated/undesigned land. Policy RC24 of the LP, which identified the site as open space, has not been saved. The site is in private ownership and currently enclosed by a 2 metre-high close boarded fence. While I consider that even in its current state, the site does have particular significance for the form and character of the village, that significance would in substantial measure be retained and formalised as a result of the proposal. The community aspiration that the land should become public open space would accordingly be supported by the proposal. It is unlikely to be secured in any other way.

27. I therefore conclude that the development would satisfy Criterion C of saved Policy HS 11 of the LP. Although limited weight can be attached to the Crick Neighbourhood Plan at present, it would also go a long way to satisfying the aspiration for the site to be regarded as Local Green Space, and to protect the key view.

Other matters

28. I acknowledge the concern of local residents that the access point would introduce additional traffic across the footpath along Church Street, which is used by schoolchildren and elderly people, amongst others. They also point out that many cars park along Church Street, creating a potential risk for pedestrians and road users. However, the access details include satisfactory visibility splays. Drivers could be expected to exercise reasonable caution appropriate to the location, and I do not consider that the additional traffic generated by four dwellings would pose a significant hazard to pedestrians or other road users. The local highway consultee had no objections to the access, subject to conditions being attached in respect of visibility splays.
29. A number of residents also commented on the potential for the scheme to harm the ecological value of the site. However the application was supported by an ecological appraisal and a mitigation strategy for Great Crested Newts. These are matters that can be satisfactorily addressed through the attachment of conditions, requiring the approval and implementation of detailed mitigation proposals in line with the recommendations of these reports.

Conditions and S106 Obligation

30. I have considered the conditions suggested by the Council in the light of the advice in the Framework and Planning Practice Guidance. Where necessary I have made minor amendments in the interests of clarity. In addition to the time limit condition, a condition specifying approved plans is necessary to define the permission and in the interests of proper planning. Conditions addressing access matters, including gates, the provision of garages and turning spaces, visibility splays, and the construction of driveways are necessary to ensure proper provision is made and in the interests of highway safety. A condition requiring samples of materials to be used in external surfaces is necessary to ensure a satisfactory finish and appearance to the development. Conditions dealing with tree protection, landscaping provision, boundary treatment and the implementation of landscaping are necessary to ensure an attractive appearance to the development and to help integrate it with the surroundings. A condition requiring a programme of archaeological work to be agreed and implemented is needed to ensure that matters of archaeological importance are properly investigated, protected and recorded. Conditions addressing ecology and Great Crested Newts are needed in the interests of preserving nature conservation interest. A condition requiring a scheme for archaeological interpretation is necessary to record the archaeological significance of the site. A Construction Management Plan is necessary to protect the living conditions of nearby residents during construction and in the interests of highway safety.
31. The Council has also proposed a number of conditions to remove permitted development rights. While the planning practice guidance advises that such conditions are rarely justified, I am satisfied that they are necessary and proportionate in this instance in view of the acknowledged importance of

protecting the setting of the Grade 1 listed Church of St Margaret of Antioch, and the archaeological significance of the site.

32. An executed S106 Obligation was submitted with the appeal. Under the terms of the obligation the developer is required to: submit the open space scheme for approval; to complete the open space works prior to the occupation of 75% of the dwellings; and to transfer the open space to the Parish Council, or a management company in the event of the Parish Council not wishing to take on the open space. The obligation provides for the general public to have free and unrestricted access at all times.
33. I consider that the obligation is necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development, as required by paragraph 204 of the Framework. I am satisfied that the obligation complies with Regulation 122 of the Community Infrastructure Regulations 2010.
34. A suggested condition requiring the provision of public open space is unnecessary in view of the executed S106 obligation referred to above.

The Planning Balance

35. The harm to the designated and undesignated heritage assets would be less than substantial, and key attributes of both the setting of the listed building and the significance of the archaeology would be protected by the careful attention to design and layout, and securing a substantial part of the site as open space. Considerable importance and weight should be attached to any harm to a Listed Building. Nevertheless, I consider the public benefit arising from the achievement of a longstanding community aspiration for public open space on a large proportion of the site is a substantial benefit which outweighs limited harm identified. The other matters raised, while material to the decision, are not of sufficient weight to alter my conclusion.
36. With regard to the development plan I consider that the proposal would be in substantial accordance with key Policies HS11 of the LP and R1 of the JCS. The harm to heritage assets would not be such as to give rise to material conflict with Policy BN5 or GN2 E of the JCS. Accordingly, the appeal should be allowed.

David Richards

INSPECTOR

Appeal Ref: APP/Y2810/W/16/3156679

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: **Project No. 354A01** /200 Rev D; /201UU Rev P; /202 Rev C; /203 Rev E; /204 Rev F; /205 Rev C; /206 Rev J; /207 Rev D; /208 Rev E; /209 Rev D; /210.
- 3) Any gates at the point of access shall be hung to open inwards only.
- 4) The garage, parking space and turning areas shown on the approved plans shall be constructed/laid out and surfaced in accordance with details to be submitted to and agreed in writing by the local planning authority before the dwellings are first occupied and shall not thereafter be used for any purpose other than garaging/parking of private motor vehicles.
- 5) Pedestrian visibility splays of at least 2.0m x 2.0m (measured from and along the highway boundary) as illustrated on drawing no. 209 Rev D shall be provided on each side of the vehicular access before the first occupation of the approved dwellings. The areas of land within the splays shall be completely cleared of all obstructions and levelled and maintained at a height not exceeding 0.6m above the adjacent footway level.
- 6) The access driveway and the parking and turning areas shall be drained to an adequate soakaway within the site in accordance with detailed drawings which shall be submitted to and agreed in writing by the local planning authority. The development shall be carried out in accordance with the agreed details before the dwellings are first occupied.
- 7) Prior to construction works above slab level samples of the materials to be used in the construction of the external surfaces of the approved dwellings and garages to include natural stone, brick, slate and tiles hereby permitted shall have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 8) No equipment, machinery or materials shall be brought onto the site for the purposes of development until details of the proposed type and plan of fencing for the protection of trees and hedges that are to be retained on the site, have been submitted to and approved in writing by the local planning authority. The fencing shall be implemented in accordance with these details and shall remain in place until all equipment and surplus materials have been removed from the site. Nothing shall be stored, disposed of, or placed, nor fires lit, in any area fenced in accordance with this condition and the ground levels within these areas shall not be driven across by vehicles, altered, nor any excavation made (including addition/removal of topsoil/subsoil) without the written consent of the local planning authority.

- 9) No development shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include:
- i) earthworks showing existing and proposed finished levels or contours;
 - ii) means of enclosure and retaining structures;
 - iii) boundary treatments;
 - iv) vehicle parking layouts;
 - v) other vehicle and pedestrian access and circulation areas;
 - vi) hard surfacing materials;
 - vii) an implementation programme.

The landscaping works shall be carried out in accordance with the approved details before the dwellings are first occupied or in accordance with the agreed implementation programme.

- 10) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that Order with or without modification) no development shall be carried out which falls within Classes A, B, C, D, E, F, G of Part 1 of Schedule 2 to the Order without the prior express consent of the local planning authority in writing.
- 11) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that Order with or without modification) no development shall be carried out which falls within Classes A (erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure) of Part 2 of Schedule 2 to the Order without the prior express consent of the local planning authority in writing.
- 12) No development shall take place within the application site until the applicant, or their agents or successors in title, has secured a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority.
- 13) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that Order with or without modification) no development shall be carried out which falls within Classes A (Development by Local Authorities) of Part 12 of Schedule 2 to the Order without the prior express consent of the local planning authority in writing.
- 14) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that Order with or without modification) no development shall be carried out which falls within Class A (temporary buildings and structures) of Part 4 of Schedule 2 to the Order without the prior express consent of the local planning authority in writing.
- 15) The recommendations of the FPCR Ecological Appraisal (February 2016) shall be implemented in accordance with a detailed programme to be submitted and approved in writing by the local planning authority prior to the first occupation of the dwellings hereby permitted.

- 16) The mitigation measures and additional mitigation measures as set out in the FPCR Great Crested Newt Survey Report and Mitigation Strategy (February 2016) shall be implemented in accordance with a detailed programme to be submitted to and approved in writing by the local planning authority prior to the first occupation of the dwellings hereby permitted.
- 17) Before the first occupation of the approved dwellings a scheme for the provision of interpretation facilities on the public open space to inform the public on the archaeological remains on the site and their significance to the village and setting of the Church, including a timetable for implementation, shall be submitted for approval in writing by the local planning authority. The scheme shall thereafter be implemented in accordance with the approved details and timetable.
- 18) Before the start of any construction work on site a Construction Management Programme shall be submitted to the local planning authority for approval in writing, which shall set out details of:
 - the hours and days of construction work
 - provision of car parks and work compounds on site
 - routing of all construction vehicles to and from the site to avoid Bury Dyke
 - measures for the control of dust and noise during construction
 - measures for avoiding deposit of mud or loose material on local roads from the construction site.

The Construction Management Programme shall be implemented in accordance with the approved details.