The Planning Inspectorate

Appeal Decision

Site visit made on 30 August 2017

by Chris Preston BA(Hons) BPl MRTPI

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

Decision date: 06 September 2017

Appeal Ref: APP/B3030/C/17/3173115
Land at Thurgarton Priory, Priory Road, Thurgarton, Nottinghamshire NG14 7GY

- 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 Roland Duce against an enforcement notice issued by Newark & Sherwood District Council.
- The enforcement notice was issued on 08 March 2017.
- The breach of planning control as alleged in the notice is: Without planning permission, the material change of use of land within the parklands and gardens associated with the Grade II* listed building to use for glamping accommodation and associated development including the siting of a 'glamping tent' and engineering works involving the construction of a stone retaining wall and decking.
- The requirements of the notice are: A. Cease the use of the 'land' for glamping accommodation. B. Remove from the land the 'glamping tent' and all associated development, including the stone retaining wall and decking.
- The period for compliance with the requirements is: For step A, 1 day after the notice takes effect and, for step B, 180 days after the notice takes effect.
- The appeal is proceeding on the grounds set out in section 174(2) (a) and (g) of the Town and Country Planning Act 1990 as amended.

Decision

1. It is directed that the enforcement notice be varied by the deletion of the words "1 day" in relation to the time period for compliance with step A at section 6 and the substitution of the following words "1 month". Subject to that variation the appeal is dismissed and the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

The Appeal on Ground (a)

2. An appeal on ground (a) is made on the basis that planning permission should be granted for the matters stated in the alleged breach of planning control. In this case that amounts to the material change of use of land for the siting of a glamping tent and associated works including the formation of a stone retaining wall and timber decking. Having regard to the respective statements, the main issues in the determination of the appeal are:

   i) The effect of the development on the setting and special interest of the Grade II* listed Thurgarton Priory and Grade I listed Church of St Peter and on the character and appearance of the Thurgarton Conservation Area; and

ii) Whether the development constitutes and appropriate form of rural diversification, having regard to local and national planning policy.

The Effect on the Setting of the Listed Buildings and the Character and Appearance of the Conservation Area

3. The parties do not dispute the significance of the heritage assets concerned and, in that respect, the appellant has accepted the analysis provided by the Council's Conservation Officer, as set out within the delegated officer report. In short, the priory was constructed as a dwelling on the site of an Augustinian monastery following the dissolution in the 16th century. The dwelling was substantially remodelled in 1777 to form the bulk of the building, as it currently exists, albeit that further changes were made in the 19th century, as noted in the listing description.

4. The Church of St Peter, which is physically connected to the Priory, was formerly the Priory Church and is of 13th century origin. The principal elevation of the Priory and the main entrance to the church face westwards across the parkland setting. To the rear of the house are more formal gardens, including a ha-ha leading onto the cricket ground. A walled garden is situated to the north and east of the house and the northernmost wall of that enclosed garden forms the boundary to Priory Lane. That wall, and the mature trees which surround the garden and cricket ground, provide a strong sense of enclosure for the Priory and Church. The complex is detached from the centre of the village in a relatively private setting with limited public views as one approaches along Priory Road.

5. It was not uncommon for cricket pitches to be incorporated into the grounds of country houses, for the recreational use associated with the occupation of the dwelling. However, from the information presented it is not clear when the cricket ground was formed or if it has any specific historical or functional relationship with the use of The Priory. Whilst evidence is lacking in those respects, there is a strong interconnection between the rear of the house and the cricket ground in visual terms. The house is aligned with the pitch and that geometry is emphasised by the presence of a formal walkway running from the projecting polygonal bay – the principal feature within the rear elevation – up to the edge of the playing surface. The formal garden blends seamlessly into the cricket pitch, without any obvious visual barrier. Thus, there is a pleasing symmetry between the house and the cricket ground which, as a result, provides an extremely picturesque backdrop to the complex containing the Priory and the Church. Consequently, whilst the historical association is not clear the cricket ground and the mature trees surrounding it contribute significantly to the setting of the listed buildings and play an important role in defining the character and appearance of the Conservation Area within this part of the village.

6. The tent is situated within an area of tree cover between the cricket pitch and the walled garden. Those using the tent enter from Priory Road through a gate in the wall and then pass down through the trees on a path that has been created to serve the unit. The tent is constructed on a timber platform which rests on the ground, being supported by concrete flagstones, as can be seen in photographs provided by the appellant. In order to provide a level platform the land towards the front of the tent has been raised such that the covered timber balcony sits above the natural land level. Gabions have been used to fill in the

void between the decking and the ground. A seating area surrounding an open campfire has been created s short distance from the front of the tent. The tent itself is supported by a timber framework covered by a robust tarpaulin. Internally, the unit is fully serviced and equipped with a fitted kitchen and living area, two bedrooms and a separate bathroom.

7. Due to its location, the tent has little obvious relationship with any of the surrounding buildings. It does not relate to the recreational use of the cricket ground, which contains an attractive pavilion and other more functional storage buildings, nor does it relate to the walled garden. Simply by virtue of its position, it sits in isolation. Moreover, although described as a tent, it is substantial and has an air of permanence. The materials used are described as 'rustic' by the appellant and, in his view are appropriate to a woodland setting.

8. However, it strikes me that the trees surrounding the cricket ground are not 'woodland' in the normal sense of the word, rather they are planted and managed as part of the parkland setting of the Priory and the Church. In other words, it is not an area of woodland that is managed for its own sake but a strip of ornamental trees that serve to enhance the setting of the Priory. Therefore, whilst a similar tent may be relatively innocuous in a detached block of woodland with little relationship with any surrounding features, I am not satisfied that can be said of the structure in this context.

9. As noted, the scene presented by the Priory, the Church, the associated parkland and gardens, and the surrounding cricket ground, is extremely picturesque. It is a well-managed, almost manicured landscape. Taking account of that context, and the fact that the tent has no obvious functional or visual relationship with any of the surrounding features, I find that the development adds visual clutter within close proximity of the adjacent listed buildings. Unlike the walled garden or cricket facilities, the location and design of which are dictated by their function, there appears to be no obvious reason why the tent is located where it is. Accordingly, it appears as an incongruous feature within the landscaped setting.

10. I appreciate that views of the tent are shielded by the surrounding trees, to a greater or lesser extent depending on the time of year. At the time of my visit the trees were in full leaf and there was a good degree of cover. Nonetheless, the tent and its associated decking and the retaining gabion wall could be seen through gaps in the trees when looking back from the bottom end of the garden of the Priory and when looking across the cricket field from other angles. I have no doubt that it would be much more visible in the winter months. In fact, one of the photographs supplied by the appellant, taken from within the formal garden, demonstrates the inter-visibility between the tent and the house when the trees are not in leaf. Therefore, despite the screening offered by surrounding trees I consider that the development is at odds with the established character of the area by virtue of its location, design and function. I also note that the appellant accepts that a degree of visual harm has occurred when viewed from some receptors[1].

11. For those reasons I conclude that the tent and associated works have caused harm to the setting of the two listed buildings and have failed to preserve or enhance the character and appearance of the Conservation Area within the vicinity of the site. I have considered whether the identified harm could be

[1] Paragraph 6 of the Appellant's response to the LPA statement

mitigated through the use of planning conditions. In terms of landscaping the mature trees are integral to the beauty of the setting and those trees can be appreciated within their own right as individual specimen within a parkland setting. In order to screen the development fully a scheme of high density planting would be required with evergreen species to provide year round cover. To my mind that kind of dense planting scheme would be at odds with the established character of the landscape surrounding the cricket ground and may well be harmful to the setting of the listed buildings of itself. I am not convinced that it would mitigate the harm that I have identified.

12. Nor am I satisfied that a temporary consent would be appropriate; the harm would remain the same, albeit that the effects would be felt for a shorter period.

13. Therefore, I conclude that the development would cause harm to designated heritage assets and that harm could not be mitigated by the use of conditions. In that respect, the development is contrary to the aims of Core Policy 14 of the Newark and Sherwood Core Strategy (2011) (the CS) and DM9 of the Newark and Sherwood Allocations and Development Management Development Plan Document (2013) (the DPD).

14. The harm to designated heritage assets that I have identified is less than substantial, with reference to paragraph 134 of the National Planning Policy Framework (the Framework). I reach that conclusion having regard to the relatively small and localised nature of the harm when viewed in the context of the much larger setting of the listed buildings and the scale of the Conservation Area, taken as a whole. Where less than substantial harm is identified, that harm must be weighed against any public benefits of the proposal.

15. The appellant maintains that the scheme brings benefits in providing access to heritage assets for visitors to the site. However, the Priory itself is not open to the public and little information is before me to support a conclusion that the presence of the Church is an important factor in visitors deciding to stay at the site. Those with an interest in church architecture are free to visit in any event and it would not be necessary to stay in such close proximity to appreciate the building; a short day visit would be likely to suffice. Consequently, I attach little weight to the alluded benefits in that respect.

16. The term 'less than substantial' could encompass a range of harm from extremely minor up to something much more significant but not quite 'substantial'. Given the scale of development involved I would describe the harm as low to moderate in this instance. However, that is not to say that the weight I must attach to that harm is low. The terms of sections 66(1) and 72 require me to have special regard to the desirability of preserving the setting of the listed buildings and to pay special attention to the desirability of preserving the character and appearance of the Conservation Area. In that context I must give considerable importance and weight to the harm that I have identified.

Whether the development constitutes and appropriate form of rural diversification, having regard to local and national planning policy

17. The Council maintain that the development should be required to demonstrate an identified tourism need in order to be acceptable, having regard to Core Policy 7 of the CS. That policy states that tourism related development, including new overnight accommodation, will be supported subject to a number

of criteria. The thrust of that policy is to locate tourist related attractions and facilities towards larger towns and service centres, with development only being supported in rural areas where a rural location is necessary to meet identified tourism needs.

18. Policy 7 was adopted prior to the publication of the Framework. I note that paragraph 28 of the Framework supports sustainable rural tourism which should include the 'provision and expansion of tourist and visitor facilities in appropriate locations where identified needs are not met by existing facilities in rural service centres'. In other words, the emphasis is on providing facilities in centres where a range of facilities are likely to be on offer. Consequently, I am satisfied that Policy 7 is broadly consistent with the Framework in its approach to rural tourism.

19. In this case, no information is before me to indicate that there is a local need for tourist accommodation at the site. I appreciate that the tent appears to be popular, judging by the number of bookings, but it is not clear that the specific location of the tent is a contributory factor. I have noted that the Priory is not open to the public and am unconvinced by the suggestion that visitors would choose a holiday destination on account of their intention to visit the Church. I see no particular reason why a church visit could not be made whilst staying within or close to a local service centre, as promoted by the policies referred to above. In addition, no information is before me that would indicate a paucity of alternative accommodation within local service centres.

20. In view of the above, I find that the location of the tent is such that it would not be supported by local and national policy with regard to tourist related development. I note that Policy 7 and paragraph 28 of the Framework are positively worded, stating that developments will be supported subject to certain criteria being met. Neither specifically states that development should be refused for failing to meet the identified criteria.

21. However, the clear thrust is to locate developments close to more sustainable service centres. In this case, the site is relatively remote from local shops and services and in an unsustainable location in that regard. I appreciate that any development relating to camping and outdoor activity will be best suited to a rural location but there is no particular reason why a location close to a local service centre would be inappropriate. Consequently, whilst the development may well have had a positive effect on the local economy as a result of visits to the local area, the location is not one that is supported by local policy. Having regard to the presumption in favour of the development plan, that is a matter that weighs against the development.

Conclusion

22. Having regard to the above, the development has caused harm to the setting of Thurgarton Priory and the Church of St Peter and fails to preserve or enhance the character and appearance of the Thurgarton Conservation Area. I attach significant weight to the harm identified in that respect. The location of the accommodation also fails to accord with the thrust of local and national planning policy with regard to visitor facilities.

23. No material considerations have been put forward that would outweigh the harm identified in those respects I conclude that planning permission should not be granted and the appeal on ground (a) shall be dismissed.

The Appeal on Ground (g)

24. The basis of the ground (g) appeal was that bookings had been taken for the summer period and it would be reasonable to allow a longer period for compliance so that the inconvenience for those who had booked to stay would be eliminated. However, it seems to me that if future bookings were cancelled with sufficient notice holiday makers would be able to find alternative accommodation. Consequently, I am not satisfied that those operational matters represent a justification for continued use of the unauthorised development and I am required to take account of the harm that I have identified and the need to ensure expediency in the enforcement of the planning system.

25. However, the period given for the cessation of the use is one day and I can appreciate that would cause stress and anxiety for any holiday makers if they were required to vacate the tent part way through a holiday the day after my decision was issued. Such a short timescale would appear to unnecessarily harsh in my view and would have the potential to cause a great deal of disruption to holidaymakers who, in all likelihood, may know nothing of the appeal proceedings.

26. Given that the normal duration of stay is likely to be a few days to a week, or possibly two, I consider that a reasonable period for compliance with step A would be one month which would be sufficient time for any current holiday makers to vacate the site and for the owners to contact future bookings to cancel with reasonable notice. The period of 180 days to remove the tent and associated development from the land is more than sufficient.

27. Consequently, the appeal on ground (g) succeeds to the extent outlined above and I shall vary the terms of the enforcement notice accordingly.

Chris Preston

INSPECTOR