



# Appeal Decision

Site visit made on 30 May 2020

**by M Savage BSc (Hons) MCD MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 24 June 2020**

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**Appeal Ref: APP/Y2810/C/19/3238329**

**Land at The Old Manor, Braybrook Road, Arthingworth LE16 8JT**

- 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 Mrs S Carvell against an enforcement notice issued by Daventry District Council.
  - The enforcement notice was issued on 5 September 2019.
  - The breach of planning control as alleged in the notice is without the benefit of planning permission, engineering works for the formation, laying out and construction of an unauthorised access track in the approximate position hatched black on the plan attached to this notice.
  - The requirements of the notice are:
    - i) Excavate and remove from the land, in its entirety, the track/driveway indicated by the black hatched area between positions "A" and "B" on the plan attached to this Notice.
    - ii) Remove all materials and debris arising from compliance with step (i) above from the land.
    - iii) Regrade and restore the land affected by compliance with steps (i) and (ii) above to grass.
  - The period for compliance with the requirements is 28 days.
  - 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.
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## Summary Decision

1. The appeal succeeds in part and the enforcement notice is upheld as varied in the terms set out below in the Formal Decision.

## Procedural Matters

2. Since the appeal has been lodged the Part 2 Local Plan (Settlements and Countryside Local Plan) has been made. The Saved Planning Policies referred to the Enforcement Notice have been replaced by ENV7 and ENV10. The appellant has been given the opportunity to comment on the implications of this through the appeal.

## Ground (a)

### Main Issue

3. The main issue is whether the appeal proposal would preserve the settings of the Grade II listed The Old Manor and the Grade II\* listed Church of St Andrew.

## Reasons

4. Arthingworth is a historic settlement set in sprawling countryside. The Grade II\* listed St Andrew's Church, an imposing square coursed and ashlar

limestone structure with slate roof, stands in an elevated and prominent position off Braybrooke Road and is a focal point for the village. The Old Manor is a Grade II listed building which stands in substantial grounds with surrounding parkland. The appellant advises that The Old Manor was extensively rebuilt about 1990 and as such, the 1985 List entry no longer accurately describes the house. However, I have no evidence that the property has been delisted.

5. Historic maps show the longstanding relationship between the church and manor, with its extensive parkland, which is typical of the English village landscape and gives a sense of place. Much of the historic parkland is now attached to 'The Manor', former stables which have been converted, and not The Old Manor. Nevertheless, the parkland retains visual and historic links to The Old Manor and consequently forms part of the setting of the Grade II listed building. I consider the significance of The Old Manor derives, in part, from its standing in extensive open land comprising formal gardens and parkland beyond.
6. Historically, The Old Manor was approached from Braybrooke Road with a lodge to the side of the entrance. The entrance, access road and lodge remain; however, the road has now been realigned at its northern end so that it no longer affords access to 'The Old Manor' but instead provides access to 'The Manor'. Road access to The Old Manor is currently gained via a generally single track road off Oxenden Road. Notwithstanding this, when approaching the site from Braybrooke Road, a historic relationship between the Lodge, The Old Manor and the church is evident and contributes towards the settings of The Old Manor and the church.
7. An appeal under ground (a) is made on the basis that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limited concerned ought to be discharged. The breach of planning control as alleged in the notice is without the benefit of planning permission, engineering works for the formation, laying out and construction of an unauthorised access track.
8. The appeal site comprises part of an agricultural field which is located between St Andrew's Church and the entrance, access road and lodge, and forms part of the settings of The Old Manor and church. The track is located off an existing agricultural access and comprises recovered grasscrete blocks on top of a newly laid base. The works are not complete and a Stop Notice was issued on 5 September 2019 which required the construction of the track to cease. The deemed planning application is for the operational development which has been carried out. Planning permission may be granted only for those matters, as corrected or varied and I no power to grant planning permission for something completely different from that enforced against.
9. Policy BN5 of the West Northamptonshire Joint Core Strategy Local Plan (Part 1)(CSLP)(2014) seeks to ensure that designated and non-designated heritage assets and their settings and landscapes are conserved and enhanced. Policy ENV7 of the Settlements and Countryside Local Plan (SCLP)(Part 2)(2020) seeks to protect the historic environment and states that proposals that would lead to less than substantial harm to a designated heritage asset will be judged against the tests in the Framework. Policy ENV10 of the SCLP seeks to secure

high quality design by ensuring that the layout and access of the proposal combine to ensure development blends well within the site and its surroundings, amongst other things.

10. In determining this appeal, I have a statutory duty, under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, to consider the impact of the proposal on the special architectural and historic interest of the listed building affected, and its setting. Furthermore, paragraph 193 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
11. I saw that there are limited views of the track from the church and The Old Manor as a result of intervening vegetation. Nevertheless, because of the sloping nature of the site the track is clearly visible from Braybrooke Road. Planning permission has previously been sought at the site for the removal of an existing drive and provision of replacement drive, which was refused and dismissed on appeal, reference APP/Y2810/W/17/3172647.
12. The appellant has sought to address the Inspector's concerns through the use of Grasscrete to minimise the visual impact of the track and requests that planning permission be granted for the access subject to a condition to secure details of the construction works and subsequent regrading of the land and seeding. The appellant has drawn my attention to paragraph 25 of the Inspector's report which commented on the removal of a spur track constructed of grassed concrete blocks set at intervals. Although the Inspector found that the track is seen as part of the parkland setting and preserves the setting of the listed buildings, this was due to its location as well as the type of construction.
13. The spur track was set some distance away from both The Old Manor and the public realm whereas the appeal scheme is adjacent to the highway and is highly visible from Braybrooke Road. The track fragments the site and detracts from the parkland setting. Whilst the track would be likely to become less visible over time, it would appear different to the surrounding grassland with its long grass and would still be discernible as a track. This diminishes the setting of the Grade II listed building and the setting of the Grade II\* listed St Andrew's Church and is contrary to Policy BN5 of the CSLP and Policies EN7 and EN10 of the of the SCLP, the requirements of which are set out above.
14. Paragraph 184 of the National Planning Policy Framework (the 'Framework') (2019) states that heritage assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance. For the reasons given, the proposal harms the setting of the nearby listed buildings. I consider that the harm arising to the significance of the designated heritage assets is less than substantial in the context of paragraph 196 of the Framework. The Framework is clear that any harm to the significance of a designated heritage asset should require clear and convincing justification.
15. The appellant asserts that the existing access to The Old Manor is inadequate and it has proven difficult for emergency and service and delivery vehicles to access the property due to the limited width of the road, a point which is also made by a number of interested parties. However, given that the track is incomplete, I consider it highly unlikely that drivers of vehicles would choose to use it. Consequently, there is no benefit from the track in this regard.

16. The appellant also asserts that there would be public benefit from the provision of a new access drive off the Braybrooke Road as those visiting the house would have an enhanced experience. Whilst I acknowledge it is usual for manor houses to have a formal entrance, the track as constructed is not typical of a formal entrance. Furthermore, although the appellant no longer has a right of access along it, the existing access road, adjacent to the Lodge appears the formal entrance.
17. There is some interested party support for the appeal proposal and the Parish Council advise that it considers that there will be no implications as the driveway will not infringe on the burial ground and does not border the churchyard. However, for the reasons given above I consider there would be harm arising from the appeal scheme. I accept that benefits do not always have to be visible or accessible to the public to be genuine public benefits. Nevertheless, I do not consider that the public benefits of the appeal scheme outweigh the harm I have identified to the setting of the listed buildings, the conservation of which I attribute great weight to.

### **Other Matters**

18. Concern has been raised regarding a wall constructed opposite the appeal site and Church. Given its position on the opposite side of the road, it does not directly affect the appeal site and is therefore not relevant to my consideration of this appeal.

### **Ground (g)**

19. An appeal on ground (g) is made on the basis that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed. The appellant asserts that significant engineering works would be required and that a period of six months to undertake parts i) and ii) and a further three months to grass depending on the time of year would be required.
20. The Council advise that the works were carried out in a matter of days and that if there are legitimate mitigating circumstances for non-compliance with the enforcement notice by the due date officers would be unlikely to proceed to prosecution.
21. Given the scale of the works and the need to use appropriate machinery and equipment to remove and regrade the land I agree that 28 days is unlikely to be sufficient time to complete the works. I consider a total of 3 months would be a reasonable time period, taking account of the time of year and the harm that I have identified above, to the setting of The Old Manor Grade II listed building and the setting of the Grade II\* listed St Andrew's Church. I shall therefore vary the terms of the enforcement notice accordingly.

### **Conclusion**

22. For the reasons given above I conclude that a reasonable period for compliance would be three months. The appeal under ground (g) succeeds to that extent. I conclude that the appeal on ground (a) should not succeed. I shall vary the notice accordingly prior to upholding it and refuse to grant planning permission on the deemed application.

## **Decision**

23. The appeal is allowed on ground (g) and it is directed that the enforcement notice be varied by the deletion of '28 days' in relation to the time period for compliance at Section 6 of the enforcement notice and the substitution of '3 months' as the period for compliance.
24. Subject to this 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).

*M Savage*

INSPECTOR