
Appeal Decision

Site visit made on 6 October 2020

by Jillian Rann BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 November 2020

Appeal Ref: APP/R1038/W/20/3248969

Sutton Manor, Palterton Lane, Sutton Scarsdale S44 5UT

- 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 Wayne Treece against the decision of North East Derbyshire District Council.
 - The application Ref 19/00626/FL, dated 12 June 2019, was refused by notice dated 25 September 2019.
 - The development proposed is residential development of 3 no Eco Homes.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant has provided two Archaeological Evaluation Reports¹ as part of his appeal. On the basis of those reports the Council has withdrawn its second reason for refusal, which referred to the site's potential for below ground archaeology and insufficient information having been provided in that regard. I return to this matter below.
3. Both main parties refer to the former deer park of Sutton Scarsdale Hall as a heritage asset. The former deer park is not formally designated. However, it is included in an entry in the Derbyshire Historic Environment Record². Having regard to the evidence before me and the advice in the Planning Practice Guidance³, I consider the deer park to be a non-designated heritage asset (NDHA). I have determined the appeal accordingly.
4. I have been referred to policies and the settlement hierarchy in the emerging North East Derbyshire Local Plan 2014-2034 (the ELP). I am advised that the ELP is shortly due to move to its main modifications consultation and that there has been only one objection to its proposal to remove the Settlement Development Limit (SDL) for Sutton Scarsdale. However, full details are not before me and the ELP remains subject to further consultation and possible amendment. I therefore afford its policies and the emerging settlement

¹ Geophysical Survey by Magnetometry on Land at Palterton Lane, Sutton Scarsdale, Derbyshire: Report Number AAL 2019180 prepared by Allen Archaeology Limited, dated December 2019; and Trial Trenching on Land at Palterton Lane, Sutton Scarsdale Derbyshire: Report Number AAL 2020021 prepared by Allen Archaeology Limited, dated February 2020.

² Entitled 'Deer Park and gardens (site of), Sutton Scarsdale Hall, Sutton Cum Duckmanton'

³ Paragraph Reference IDs: 18a-039-20190723 and 18a-040-20190723

hierarchy limited weight. I have determined the appeal on the basis of the North East Derbyshire Local Plan, adopted November 2005 (the Local Plan).

Main Issues

5. The Council's reasons for refusal refer to the effects on the Sutton Scarsdale Conservation Area (the SSCA) but do not specifically identify harm to any nearby listed buildings. However, I am mindful of my statutory duties under sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. I have considered the appeal accordingly, having regard to the evidence before me and my own observations regarding those nearby listed buildings.
6. On that basis I consider the main issues to be the effect of the proposed development on:
 - the setting of the grade I listed building and scheduled monument known as Sutton Scarsdale Hall;
 - the former deer park associated with Sutton Scarsdale Hall as a NDHA;
 - the character and appearance of the local landscape, including with regard to the character or appearance of the SSCA and the setting of the grade II listed building known as Sutton Manor.

Reasons

7. The appeal relates to a field on the northern side of Palterton Lane. It is just outside the SDL for Sutton Scarsdale. As such, it is in the countryside.

Sutton Scarsdale Hall and the historic deer park

8. The remains of Sutton Scarsdale Hall are a grade I listed building and a scheduled monument. The Hall historically stood in an extensive designed deer park landscape. However, the evidence indicates that much of the deer park was broken up during the 20th century and few of its historic parkland features remain. Insofar as it relates to this appeal, the significance of the Hall is drawn from its historic interest as an example of a large 18th century country house and from those structures and landscape features of its historic deer park which remain. It also draws interest from the potential for archaeological evidence of its former gardens and earlier phases of the hall to remain within its wider surroundings.
9. As a NDHA, the former deer park draws significance from its historic interest as a designed landscape associated with the estate of Sutton Scarsdale Hall and from those remaining features of that parkland landscape which remain.
10. The site was historically part of the deer park associated with Sutton Scarsdale Hall. Its front boundary is demarcated by an historic dry stone wall which has marked the boundary of the former deer park since Palterton Lane's apparent realignment in the 1820s or 1830s. As such, that wall is a remaining landscape feature which contributes to the significance of the former deer park and to the setting of the listed building and scheduled monument at Sutton Scarsdale Hall.
11. However, historic map evidence indicates that by 1916 the site itself had been separated from the deer park and subdivided into a series of small enclosures. It appears from those maps that the line of trees that now run along the site's

northern boundary appeared sometime between 1899 and 1916 and thus were not part of the former parkland landscape. The evidence therefore indicates that the site has not formed part of the deer park, and has been physically separated from it by non-parkland trees, for over 100 years.

12. There are mature trees within the site adjacent to the southern boundary wall. Some historic maps appear to show trees within the southern part of the site following the realignment of Palterton Lane. However, such features are not consistently shown on all of those maps. Nor is it clear whether their location is entirely consistent with those trees present alongside that boundary now. Trees were evidently a characteristic of the former parkland. However, from the evidence before me I am not satisfied that those existing trees along the southern boundary or elsewhere in the site were part of the former parkland landscape.
13. Historic maps show that an avenue of trees historically ran across the deer park to the north of the appeal site's location and towards the eastern frontage of Sutton Scarsdale Hall. The maps indicate that the avenue of trees ended at the ha ha, which is quite tall at that point, and does not appear to have led to a gate in the south eastern corner of the estate. The evidence therefore suggests that it may have been a designed view rather than serving as an access to the Hall. Furthermore, given the rising landform just beyond the site's northern boundary, it appears unlikely that the site would have featured prominently in views from that avenue in any event.
14. Historic maps indicate that those avenue trees were gradually removed during the 20th century. They do not exist today. Nor is there anything which now guides or directs a view across that land from the Hall.
15. The proposal would result in the development of land which historically formed part of the deer park to Sutton Scarsdale Hall and thus had a functional connection and a commonality of ownership with the Hall. However, those links have subsequently been broken. The site has not been in the same ownership as the Hall for a considerable period of time. It does not have a coherent visual connection to the Hall or any remaining link to any historic or remaining designed vista which formed part of the former deer park landscape. Nor does the evidence indicate that the site contains notable features which were historically part of that landscape with the exception of its front boundary wall.
16. Therefore, although it may have remained undeveloped, the site is no longer legible as part of that historic deer park landscape. Consequently, whilst it may form part of the setting of the grade I listed building or scheduled monument of Sutton Scarsdale Hall, it does not contribute to the experience, understanding or significance of those designated heritage assets.
17. On that basis, a further change in the use of the site would not harm its contribution to the significance of the historic deer park as a non-designated heritage asset. Nor would it harm the understanding, appreciation or setting of the listed building or scheduled monument at Sutton Scarsdale Hall.
18. The development would involve the removal of part of the historic dry stone wall along the site frontage. However, the loss of historic fabric would be limited and the overall legibility of the historic deer park boundary would remain. Therefore, that aspect of the development would not cause harm to the legibility or significance of the former deer park or the setting of the listed

building or scheduled monument at Sutton Scarsdale Hall. Nor would such harm arise from the removal of a limited number of trees to facilitate the development, in the absence of compelling evidence to indicate that those trees were part of the historic designed parkland landscape.

19. On the basis of the two Archaeological Evaluation Reports provided with the appellant's appeal submissions the Council has noted that the site has little apparent archaeological potential. It has thus withdrawn its second reason for refusal. However, given the site's proximity to the scheduled monument at Sutton Scarsdale Hall, the Council has suggested a precautionary condition requiring archaeological monitoring during any groundwork, to allow any remains which may have been missed to be identified and recorded. From the evidence before me I have no reason to disagree with the Council's conclusions or to doubt that such provision would be sufficient to protect any such remains.
20. Given the above I conclude that the development would not harm the setting of the grade I listed building or scheduled monument known as Sutton Scarsdale Hall, or the significance of the former deer park as a NDHA.

Character and appearance

21. During the 20th century, following the subdivision of the Sutton Scarsdale Hall estate, housing was gradually developed in its former grounds along Palterton Lane to the west of the site. Those relatively large dwellings are generally set back from the road frontage behind quite long front gardens. Further infill housing development has also taken place to the rear of some of them. Those houses and their large landscaped gardens combine to give the section of Palterton Lane between the western site boundary and the Sutton Lane junction a distinctively domestic character and appearance.
22. However, that 20th century suburban development has not extended to the site. Beyond the last of those properties the character of Palterton Lane, including the site itself, quickly changes and the pattern of development becomes notably more sporadic. It still includes some dwellings, such as the bungalow at Sutton Lodge and the substantial residence at Sutton Manor to the east of the site and the pair of stone houses opposite. However, those groups of buildings are interspersed with large gaps, separated by fields and open land. They also include historic and modern outbuildings at Sutton Manor and beyond which have a distinctively agricultural character and appearance. The character of Palterton Lane outside the SDL is therefore distinctly dispersed, open and rural. As such it contrasts sharply with the character and pattern of development within the SDL immediately to the west of the site.
23. The appeal site is one of the large open fields between clusters of buildings that characterise the rural section of Palterton Lane beyond the village. Notably, it separates Sutton Lodge, Sutton Manor and its former agricultural outbuildings from the 20th century housing to the west. In its existing open, undeveloped form the site is a distinctive feature of the rural landscape which surrounds the village of Sutton Scarsdale and characterises Palterton Lane outside the SDL. As such, the site is a positive component of that landscape.

SSCA - significance

24. The SSCA includes the village of Sutton Scarsdale and land to the north and east which was formerly part of Sutton Scarsdale Hall's deer park and gardens.

Therefore, it encompasses the 20th century houses on Palterton Lane to the west of the site. It also includes farms that were within the Sutton Scarsdale estate, including Sutton Manor (formerly Park Farm) to the east.

25. The significance of the SSCA is derived in part from those features which remain as evidence of the former Sutton Scarsdale Hall estate. Those include the dry stone walls which mark the estate's historic boundaries.
26. Large parts of the former parkland are now in agricultural use. However, the SSCA nonetheless draws significance from the clear distinction and contrast in character and appearance between the tightly defined built-up part of the village and the more sporadic development and open land that characterise its wider rural surroundings.
27. The site's legibility as part of the former deer park has been significantly eroded. However, as an area of agricultural land its openness has been preserved. As such, it contributes to the rural character of the village's wider surroundings and to the character and appearance of the SSCA. The site's front boundary is also marked by an extensive section of the distinctive dry stone walling which historically defined the boundaries of the Sutton Scarsdale estate. That well-preserved boundary structure is a distinctive feature of the village and further contributes to the character and appearance of the SSCA.

Sutton Manor - significance

28. Sutton Manor is a late 17th, early 18th century grade II listed farmhouse, formerly known as Park Farm. Insofar as it relates to this appeal its significance is drawn from its historic interest and connection to Sutton Scarsdale Hall as one of the farms within its estate. Historic and architectural interest is also drawn from the fabric and appearance of the building itself. The evidence indicates that the site was not part of the agricultural land associated with Park Farm before the Sutton Scarsdale Estate was subdivided, since it was part of the deer park at that time. However, the site was evidently turned over to agricultural use subsequently and historic map evidence indicates that it has formed part of Park Farm/Sutton Manor's agricultural land at points since.
29. Consequently, and given its proximity to Sutton Manor and its open pastoral appearance, the site is part of and preserves the historic agricultural setting of Sutton Manor. It also serves to separate and distinguish the listed building and its historic outbuildings from the built-up parts of Sutton Scarsdale village. Therefore, in its existing undeveloped form, the site contributes to the significance of Sutton Manor.

Effects on the SSCA, Sutton Manor and landscape character

30. The development of the site would result in the loss of one of the wide areas of open space between buildings which are integral to the distinctive, dispersed pattern of development which characterises Palterton Lane beyond the 20th century housing which ends to the west of the site.
31. The proposed dwellings would be low in height and dug into the rising landform with flat green roofs. Their main parking areas would be covered and screened. Nonetheless, the presence and residential character and appearance of the structures would be clearly evident. As would their vehicular access areas, the visitor parking to the front of the buildings, and their residential gardens with associated domestic paraphernalia such as washing lines and outdoor seating.

32. The proposal would therefore result in the encroachment of a highly discordant and uncharacteristically domestic form of development into the countryside. It would remove the gap between the residential development to the west and the cluster of buildings including Sutton Manor to the east, effectively annexing those buildings onto the village. Consequently, the scheme would significantly erode the distinction and sense of separation between the village and its rural surroundings, including those former and existing agricultural buildings to the east. It would also erode the distinctively dispersed pattern of development which characterises this section of Palterton Lane. It would therefore cause harm to the rural landscape which surrounds Sutton Scarsdale village.
33. Due to the topography of the site and its surroundings and the screening provided by existing buildings and trees, the effects would be relatively localised and less discernible from more distant public vantage points. However, the effects on the character and appearance of Palterton Lane and on the sense of distinction between the built up part of the village and its surrounding rural landscape as experienced in that more localised context would nonetheless be significant.
34. The amount of the dry stone front boundary wall to be removed would be relatively limited and the proposed access would not be dissimilar to other residential and agricultural access points that punctuate the wall along Palterton Lane. Most of the historic dry stone boundary wall would remain and it would not be fragmented to a significant or harmful degree by the proposed access. Therefore, that aspect of the development would not harm the character or appearance of the SSCA.
35. The removal of several mature trees to facilitate the development would have a short term effect on the appearance of Palterton Lane. However, I have little evidence to indicate that those trees were significant features of the historic designed parkland. Therefore, and taking account of the new planting proposed, the character of the SSCA would be preserved in that regard.
36. However, for the reasons given, the development would erode the distinctive character and pattern of development on Palterton Lane in the vicinity and the contribution that the site makes to that character. It would therefore cause harm to the character and appearance of the SSCA.
37. The development would result in the loss of an open field that contributes to the rural setting of the historic farmhouse and associated outbuildings at Sutton Manor. The proposed buildings would be evident despite their green roofs and being partly dug into the sloping land. So too would the domestic character of their associated gardens and external parking and access areas. The development would therefore erode the rural, agricultural setting of Sutton Manor and eradicate the sense of separation and distinction which exists between that listed building and the built-up domestic frontage to the west. It would therefore also cause harm to the setting of Sutton Manor.
38. The proposed tree planting and use of sympathetic materials would not address the harm I have identified as the buildings and domestic nature of the site and its external areas would still be evident from Palterton Lane in the vicinity of the site.

Public benefits

39. The harm to designated heritage assets would be less than substantial. It has been suggested that the level of harm would be negligible or at the lower end of less than substantial. However, less than substantial harm does not equate to less than substantial weight, and I give considerable importance and weight to the harm arising. The National Planning Policy Framework (the Framework) requires such harm to be weighed against the public benefits of the proposal.
40. The development would provide three new dwellings, thus contributing to the district's housing supply. Although there are few amenities in the village, future occupants may provide some limited support for facilities in nearby villages. It would also generate some employment and economic activity during the construction phase. However, those benefits arising from the small scale development proposed would be modest and I afford them only limited weight.
41. The submissions indicate that the dwellings have been designed as 'eco homes', to optimise solar gain and natural light and incorporate measures aimed at achieving high levels of energy efficiency. They would also have green roofs. I recognise the potential public benefits of such measures, including in relation to thermal and energy efficiency, biodiversity and sustainable drainage.
42. However, the evidence suggests that the detailed design of the dwellings is at a relatively early stage. Initial calculations appear to indicate that the dwellings could be notably more energy efficient than dwellings of standard construction. However, I have little substantive detail regarding the exact specification of the dwellings or those measures which would be incorporated. Furthermore, whilst general information has been provided as to the potential benefits of green roofs, I have little by way of detailed information regarding the construction or specification of the proposed green roofs or measures for their future management. Therefore, I cannot be certain as to the precise nature or extent of those benefits which may arise, or whether they could be secured for the lifetime of the development. This limits the weight I give to those measures as public benefits.
43. The use of a reed bed filtration system would be of benefit as part of a sustainable drainage system. Together with other landscaping proposals including the tree-lined 'woodland walk' it could also provide biodiversity benefits. I afford some modest weight to those as public benefits, having regard to the relatively small scale of the scheme.
44. Drawing those threads together, whilst I recognise the potential public benefits of the scheme, they would not outweigh the harm to designated heritage assets that I have identified in this case.

Overall conclusion on character and appearance

45. I conclude that the development would have an adverse effect on the character and appearance of the local landscape, including with regard to the character and appearance of the SSQA and the setting of the grade II listed building known as Sutton Manor. That harm would not be outweighed by its public benefits. The development would therefore conflict with Policies NE1 and BE11 of the Local Plan. Those policies require developments to preserve or enhance the character of conservation areas and state that proposals that would result

in the loss of distinctive features that contribute towards the landscape character of an area will not be permitted.

46. The development would also conflict with the Framework, which states that heritage assets should be conserved in a manner appropriate to their significance and requires that developments are sympathetic to local character and history, including landscape setting.

Other heritage assets

47. As part of the landscaped grounds historically associated with Sutton Scarsdale Hall, the grade II listed gardens wall and attached ha ha at Sutton Scarsdale Hall have some historic connection to the site. However, given their location relative to the site and the degree to which the site's legibility as part of that historic parkland has been eroded, the development would not affect their setting.
48. The grade II* listed Church of St Mary also formed part of the wider Sutton Scarsdale estate. However, the appeal site does not have a direct functional connection with the Church. On that basis, and given its separation from the Church, the development would not affect its setting.

Planning Balance and Conclusion

49. It has been suggested that some Local Plan policies are out of date, including those relating to SDLs. However, in this case I have found harm to designated heritage assets. Accordingly, having regard to Paragraph 11d) i. and footnote 6 of the Framework, the application of policies in the Framework that protect assets of particular importance provide a clear reason for refusing the development proposed. Therefore, the 'tilted balance' in paragraph 11d) of the Framework is not engaged, even were I to find that the policies most important for determining the application were out of date.
50. The development would have a significant adverse effect on the character and appearance of the local landscape. It would also cause harm to the SSICA and the setting of Sutton Manor. That harm arising would not be outweighed by the benefits of the scheme.
51. Therefore, I conclude that the appeal should be dismissed.

Jillian Rann
INSPECTOR