



Appeal Decision

Site visit made on 11 August 2020

by R Norman BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 March 2021

Appeal Ref: APP/E2530/W/20/3251520

Land off Kettering Road, Stamford PE9 2JS

- 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 S Boon, Simon Boon Homes Ltd against the decision of South Kesteven District Council.
 - The application Ref S19/1519, dated 20 August 2019, was refused by notice dated 20 February 2020.
 - The development proposed is the erection of 3 detached, 2 semi-detached and 3 terraced houses together with site access, car parking and turning areas.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 3 detached, 2 semi-detached and 3 terraced houses together with site access, car parking and turning areas at Land off Kettering Road, Stamford PE9 2JS in accordance with the terms of the application, Ref S19/1519, dated 20 August 2019, subject to the conditions in the attached Schedule.

Application for costs

2. An application for costs was made by Simon Boon Homes Ltd against South Kesteven District Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are:
 - whether the development would preserve or enhance the character or appearance of the Stamford Conservation Area;
 - whether any harm to the character or appearance of the Conservation Area would be outweighed by the public benefits of the development; and
 - the effect of the development on public rights of way.

Reasons

Conservation Area

4. The appeal site is located outside of, but in proximity to, the Stamford Conservation Area. The Conservation Area consists of three character areas

and the appeal site is close to the St Martin's Character Area. The site is visible from within and in the wider context of this historic area.

5. The Conservation Area encompasses a large area of the town and includes a number of Listed Buildings and heritage assets. It is characterised strongly by mediaeval street patterns, with buildings showcasing traditional detailing and materials with a strong vernacular character. The area in proximity to the appeal site includes the Grade II Fryers' Callis and Burghley Lodges which are also Grade II Listed Buildings and incorporate historic walls and gateways. The appeal site contributes to the setting of these heritage assets by forming part of a wider network of transitional spaces which lead from the urban frontages to more open countryside beyond.
6. The appeal site currently comprises an area of undeveloped land, which is largely screened from Kettering Road by a mature belt of trees and hedging. Public footpaths run through the appeal site, and beyond is open countryside. The proposed development would introduce 8 dwellings into the appeal site, with access off Kettering Road. They would be arranged as three detached properties to the rear of the site and a row of terraced and semi-detached properties along the frontage, set back behind the natural screening belt.
7. This part of Kettering Road represents a transition from the more densely developed town to the wider countryside beyond, and its footpaths provide access to the rural areas. However, the site is located close to the main built up areas and on both sides of the road development continues beyond the appeal site. In addition it is well screened by existing vegetation which significantly reduces the open appearance of the appeal site within the street scene and I find that it is not overly exposed or open as a result. Accordingly, whilst the site makes some contribution to this transitional area, this is limited and confined to glimpses through the boundary screening. In itself, I find that the appeal site does not provide a significant contribution to the wider rural surroundings, nor to the setting of the Conservation Area or other nearby heritage assets.
8. Whilst the proposed development would introduce an urban development into the site and would result in hard surfacing and domestic paraphernalia that would alter the visual character of this site and would represent a noticeable change to the setting of the nearby heritage assets, this would not be out of keeping with the surroundings, nor would it result in the loss of an area of green, open space that would be unduly detrimental to the wider rural character of this part of Stamford.
9. Stamford is an attractive town with many historic buildings and a positive built form. The proposed development would introduce a mix of dwelling scales and designs into the appeal site with the front boundary screening serving to soften the overall appearance of the development. I find the proposed development to be well designed overall and would introduce dwellings which respond to the local distinctiveness and vernacular of the surroundings. I find that as a whole, and within the context of the existing properties, and those under construction nearby, that the development would be sympathetic to the character and appearance of the area.
10. In terms of the proposed layout itself, the development would introduce 8 new dwellings into the site, located around a shared access road. The dwellings to the rear would be relatively large, with smaller properties located towards the

road frontage. The siting of the proposed dwellings would be sufficiently spacious. Whilst the properties on Pinfold Lane are set within much larger plots, I have had regard to the variety of development in the area and I find that the proposed development would not be at odds with its surroundings in terms of form, scale or layout. The siting of the dwellings within the site would serve to preserve a degree of openness along the frontage of Kettering Road and the retention of the boundary landscaping would soften the overall visual impacts of the proposed development. As such, any contrast with the adjoining Pinfold Lane properties would not render the development unacceptable.

11. I find that the site overall has limited countryside or open character as a result of its screening and the adjoining and surrounding built form. It appears reasonably distinct from the open land beyond and reads more with the surrounding developments. Consequently, the proposed development, although altering views into and out of the Conservation Area, would have limited visual impacts on the Conservation Area as a whole or the individual heritage assets within this.
12. I therefore find that, for the above reasons, the proposed development would result in less than substantial harm to the character or appearance of the Stamford Conservation Area and I agree with the Appellant's view that the level of less than substantial harm would be low. Policies SP2 and EN6 of the South Kesteven District Council Local Plan 2011 – 2036 (Local Plan) require development to not compromise the town's nature and character and where development that is likely to cause harm to the significance of a heritage asset or its setting will only be granted permission where the public benefits outweigh the potential harm, amongst other things.

Public Benefits

13. In accordance with the requirements of Policy EN6 of the Local Plan and paragraph 196 of the National Planning Policy Framework (2019) (the Framework), it is necessary to balance the less than substantial harm with the benefits that would arise from the proposed development.
14. The proposed development would provide 8 new properties of a mixed size and tenure. The development would also contribute towards off-site extra care housing and the NHS by providing financial contributions, secured by a legal agreement. The provision of family homes in proximity to the main town would result in additional use of local facilities and services and as such would bring economic benefits and there would be improved pedestrian facilities along Kettering Road secured by condition. There would also be short term economic benefits in terms of employment for construction workers.
15. The impacts of the proposed development on the setting of the Conservation Area and nearby Listed Buildings are at the low end of the scale. In accordance with the requirements of the Framework, paragraph 193, great weight should be given to the asset's conservation, irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm. Nevertheless, I still find that the identified public benefits from the proposed development, both in the short and long term, do significantly and demonstrably outweigh the harms identified.
16. Consequently, the proposal would accord with the provisions of Policy EN6 of the Local Plan and the Framework. Collectively, these seek to ensure that

development that is likely to cause harm to the significance of a heritage asset or its setting will only be granted permission where the public benefits outweigh the potential harm, amongst other things.

Public Rights of Way

17. At present two public footpaths run across the site, and therefore the development would require the diversion of these routes. The Council suggest that these are popular, long-established, and well-used routes. The proposed development would not result in the total loss of the footpaths, rather the diversion of a short section along the access road and the side boundary of the site.
18. I have been presented with little evidence to lead me to conclude that the proposed development would restrict current levels of use of the public footpath nor discourage people from using it as it would still link Kettering Road and the wider countryside, despite having a different termination point at its junction with Kettering Road. I also consider that the diversion of the footpath and introduction of dwellings into the site would not result in a level of change that would result in the blurring of the urban and rural landscapes to an unacceptable extent. Initial views of the countryside from within the site would alter, however this would affect a short stretch of the public footpath.
19. The proposed development would therefore comply with the requirements of Policies SP2 and EN3 of the Local Plan which seek to ensure that development will not compromise the nature and character of the town, and will maintain and improve the green infrastructure network, amongst other things.

Other Matters

20. A unilateral undertaking, dated 16 July 2020, has been submitted. This makes provision for £595,931 towards affordable Extra Care Housing in Stamford and an NHS contribution of £5,280. These contributions have been justified by the Council and therefore I am content with the contents of the submitted legal agreement.
21. Local objections and supporting documents, including a statement of case for a 2017 planning appeal¹, have been received concerning, in addition to the above matters, that previous applications on the site have been turned down, additional traffic would cause congestion, further new housing is not required, the site is not allocated in the new Local Plan, incomplete local consultation and notification, loss of green space and wildlife and well-being impacts.
22. In terms of the concerns raised over matters of access and highway and pedestrian safety, the proposed access point would be located to the corner of the site frontage, in proximity to Pinfold Lane. The submitted information shows adequate visibility and traffic would be able to pull forward to see to exit the site. The proposal has been considered by the local highway authority, who raise no objection to the development on highway safety grounds. Furthermore, I note a condition is suggested to secure a footpath. Accordingly, I have been presented with limited evidence which would lead me to conclude that the development would be harmful in terms of highway and pedestrian safety.

¹ RSP – APP/E2530/W/17/3181823

23. The proposal would result in the loss of a pocket of green land with vegetation present. However, the suggested conditions require the provision of bat and bird boxes and the retention of trees and new planting to mitigate against the loss of any biodiversity. The proposal has been supported by an ecology report which concluded that no protected species were present on site. In visual terms, whilst the scheme will introduce an urban feature into the landscape, the development would be in keeping with the character of this part of Kettering Road, and the frontage vegetation would serve to soften the overall appearance. The diversion of the footpaths would still provide public access to the countryside beyond.
24. I note the concerns in relation to the previous applications on the site, whether there is a need for additional housing, the unallocated nature of the site and the notification and consultation carried out. However, the presence of other new builds in the area is not a reason to dismiss the proposal. Furthermore, it is not uncommon for sites to have other unsuccessful applications however I am considering the scheme before me on its own merits. Matters relating to the notification and consultation of the proposal are not for me to conclude upon.

Conditions

25. In addition to the standard time limit condition, I have imposed a condition listing the approved plans as this provides certainty. The Council have suggested a number of conditions which I have considered against the advice in the Planning Practice Guidance and amended or omitted where necessary. I note that the suggested conditions differ from those originally proposed in the Committee Report and I have had regard to the comments of the Appellant in relation to suggested amendments or omission of conditions.
26. A condition for a Construction Environmental Management Plan is necessary in the interests of protecting the locality and highway safety during the construction period. A condition for details of the external surfaces of the dwellings is necessary in the interest of the visual character of the development and its surroundings, including the nearby Conservation Area. I do not consider this condition is required to be a pre-commencement condition and have amended it accordingly.
27. A condition for foul and surface water drainage is necessary to ensure a satisfactory method of drainage on site and to ensure the development does not adversely affect the surroundings. I have imposed conditions for tree protection and details of hard and soft landscaping to ensure the trees on site are not damaged and in the interests of the visual integrity of the site and its surroundings.
28. I have imposed a condition for details and installation of bird and bat boxes to ensure wildlife and habitat impacts are suitably mitigated. A condition for the provision of a footpath is necessary in the interest of highway and pedestrian safety. A condition for sustainable building works is supported by Policy SB1 therefore I have imposed this.
29. Conditions for the removal of permitted development rights should only be imposed in exceptional circumstances. In this instance, given the proximity to a number of heritage assets, I find this to be sufficiently justified. I note the

suggested conditions on the original committee report and the comments of the Appellant, and I have amended the condition accordingly.

30. I agree with the Appellant that there appears to be little justification for conditions requiring archaeological investigation and contamination surveys and remedial work given the statutory consultee comments. I have therefore not imposed such a condition.
31. Conditions 3 and 4 are required to be pre-commencement as it is fundamental to have these matters agreed up front before any work is carried out on site.

Conclusion

32. For the reasons given above I conclude that the appeal should be allowed.

R Norman

INSPECTOR

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: Drawing Numbers: 1980-01; 1980-02 Rev A; 1980-07; 1980-08; 1980-09; 1980-10; 1980-11; 1980-12; 1980-13; 1980-14; 1980-15; 1980-16; 1980-17; 1980-18 and 1980-19.
- 3) Prior to the commencement of the development hereby permitted, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the local planning authority. This shall indicate measures to mitigate against traffic generation and drainage of the site during the construction stage of the proposed development. The development shall then be carried out in accordance with the approved CEMP. The CEMP shall include, though not necessarily be restricted to, the following details:
 - a) A site waste management plan;
 - b) A Traffic Management Plan incorporating the routing of construction traffic and details of heavy vehicle patterns (including earliest and latest times and suspension of trips during peak traffic times);
 - c) Measures to minimise and control noise, vibration, dust and fumes during site preparation works;
 - d) Details of the site parking of all vehicles of site operatives and visitors;
 - e) The location, extent and duration of any temporary stockpiling areas;
 - f) Measures for wheel washing to prevent mud being deposited on the surrounding highway;
 - g) Phasing of the development to include access construction;
 - h) Loading/unloading of plant and materials used in constructing the development;
 - i) Construction activities will not take place outside the hours of 08:30 to 17:30 Mondays to Fridays, or 09:00 to 13:00 on Saturdays, and will not take place at any time on Sundays or Bank/Public Holidays;
 - j) A programme of implementation for items a) to i) above.

The approved CEMP shall be strictly adhered to throughout the construction period.

- 4) Prior to the commencement of the development hereby permitted, a tree protection method statement including protection plan shall be submitted to and approved in writing by the local planning authority. The method statement and plan should have regard to the BS5837 (2012) Trees in Relation to Design, Demolition and Construction – Recommendations. A plan identifying which trees are to be felled and which are to be retained should also be provided. A site-specific tree protection scheme for the retained trees should also be submitted taking into account the impacts

- from construction work, scheduling of works, foundations, hard surfaces, drainage systems and utilities.
- 5) Prior to any works above damp course level, details of all the materials to be used in the construction of the external surfaces of the development hereby permitted shall be submitted to and approved in writing by the local planning authority. Sample panels of the proposed surfacing materials (brickwork, panels and render) of at least a metre squared (showing where appropriate the proposed coursing, method of pointing of mortar) shall be erected on site for consideration and subsequent approval. The panels shall be retained on site until the completion of the works.
 - 6) Prior to the commencement of works on site, other than those works for site clearance, details of the disposal of foul and surface water drainage shall be submitted to and approved in writing by the local planning authority. The approved works shall be completed in accordance with the details and shall be provided prior to the first occupation of the development.
 - 7) Notwithstanding the submitted plans, before the completion of any of the dwellings, details of a soft and hard landscaping scheme shall be submitted to and approved in writing by the local planning authority. The scheme shall include the following:
 - a) Fully annotated plans showing the locations of individually planted semi-mature trees, shrubs and hedging, which shall include planting schedules, noting species, plant sizes and proposed numbers and densities, method of cultivation and details of the proposed planting implementation programme;
 - b) Details of the boundary treatments and finished site levels/contour details;
 - c) Surfacing treatments of the pedestrian circulation areas, parking areas and paths;
 - 8) The landscaping details approved under condition 7 shall be implemented in the first planting season following first occupation of the development and individual plot landscaping shall be completed before the occupation of that housing plot. If, within a period of 5 years from its date of planting, any tree is uprooted, removed or is destroyed or dies or becomes seriously damaged or defective, then a replacement tree of the same species and size as that originally planted shall be planted in the same position or another position approved by the local planning authority.
 - 9) Prior to the completion of any of the dwellings, a scheme of the provision of bat and bird boxes shall be submitted to and approved in writing by the local planning authority. The boxes shall be installed prior to occupation and retained thereafter.
 - 10) Prior to the first occupation of the development hereby permitted, a 1.8 metre footway to connect the development to the existing pedestrian footway on Kettering Road at Pinfold Lane shall be provided as part of application S18/1207 in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. The

works shall also provide details of the arrangements for the management of surface water run-off from the highway.

- 11) No development to construct the dwellings shall take place until details demonstrating how the proposed dwellings would comply with the requirements of Local Plan Policy SB1 have been submitted to and approved in writing by the local planning authority. The scheme shall include details of how carbon dioxide emissions would be minimised through the design and construction of the buildings, details of water efficiency and the provision of electric car charging points. The approved sustainable building measures shall be completed in full, in accordance with the agreed scheme, prior to the first occupation of the dwellings hereby permitted.
- 12) Notwithstanding the provisions of Schedule 2, Part 1, Class A and Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Order, with or without modification), no enlargement, improvements or other alterations and no gates, fences, walls or other means of enclosure to plots D, E, F, G and H shall be carried out without planning permission first having been granted by the local planning authority.