
Appeal Decision

Site visit made on 23 December 2022

by David Spencer BA(Hons) DipTP MRTPI

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

Decision date: 13 January 2023

Appeal Ref: APP/E2530/W/22/3305170 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 Simon Boon of Simon Boon Homes Ltd against the decision of South Kesteven District Council.
 - The application Ref S22/0376, dated 15 February 2022, was refused by notice dated 30 June 2022.
 - The development proposed is erection of 4 detached dwelling and garaging, creation of access and associated landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Following the decision of the Local Planning Authority (LPA), the Stamford Neighbourhood Plan (SNP) was made on 25 July 2022. As such the made SNP is now part of the adopted development plan at the appeal location. I am satisfied that the main parties in the appeal have had sufficient opportunity to consider the adopted SNP in their appeal submissions.
3. The LPAs decision notice sets out three reasons for refusal. The second reason relates to the absence of a mechanism to secure a planning obligation in relation to affordable housing provision. During the appeal the appellant submitted a Unilateral Undertaking (UU) under the auspices of Section 106 of the Town & Country Planning Act 1990 (As amended) containing a planning obligation for a financial contribution towards affordable housing. The LPA has had an appropriate opportunity to comment on the UU and has confirmed that whilst the UU addresses the second reason for refusal, it nonetheless maintains its overall position that, on balance, the harms it has identified would not be outweighed by the benefits. I address the UU below in my decision.

Context and Main Issues

4. The appeal site has an intricate planning history. The LPA has approved a scheme for 3 dwellings on the northern part of the site under reference S/20/0908 in June 2020. I note this scheme would retain vegetation on the Kettering Road frontage and maintain the alignment of two public footpaths across the site including the retention of views from these paths within the appeal across to the Grade II listed Burghley Lodges (West Gate) and Gateway Arches (often referred to as the 'Bottle Lodges'). I will refer to this proposed development in this decision as the 'June 2020 scheme'.

5. Additionally, two schemes have been allowed on appeal at the site. The first scheme¹, consented a comprehensive residential estate development of some 39 dwellings across the appeal site and the adjoining parcel of land to the west. This land to the west has now been separately developed as St. Michaels Field. This appeal scheme would have retained frontage vegetation. It would have also re-routed both footpaths within a relatively dense residential estate and would have resulted in the loss of views from these paths to the Bottle Lodges. I will refer to this scheme as the 'February 2018 appeal scheme'. More recently, a scheme for 8 houses was allowed on appeal on the northern part of the site in August 2020². This consented scheme would retain vegetation to the Kettering Road frontage and involve diverting the footpaths, initially through the development and then along the western boundary of the site. Views from these paths across the southern half of the appeal site to the Bottle Lodges would be retained. I will refer to this scheme as the 'August 2020 appeal scheme'.
6. Consequently, the principle of residential development at the appeal site has been established. The most recently approved schemes have sought to retain frontage vegetation onto Kettering Road and views across the appeal site from the public footpaths to the Burghley Bottle Lodges. Accordingly, the main issues for this appeal are:
 - i) The effect of the proposal on the character and appearance of the surrounding area including the setting of the adjacent Conservation Area and separately the effect of the proposal on the setting of Fryers' Callis and Burghley Lodges (West Gate) and Gateway Arches, both Grade II listed buildings; and
 - ii) The effect of the proposal on the quality and experience of using public footpaths as part of the network of green infrastructure in this part of the District.

Reasons

Heritage

7. The appeal site is outside of but adjacent to the Stamford Conservation Area (SCA) the boundary of which fringes the north-east corner of the appeal site on Kettering Road and encompasses the Fryers' Callis building on the opposite side of the road. The frontage of the appeal site can be seen in views westwards when leaving the conservation area as well as being glimpsed within parts of Wothorpe Road within the SCA a short distance to the north. As such the appeal site occupies a point of transition from the edge of the tightly-knit historic core of the town of Stamford and countryside to the south-west.
8. The heritage significance of the SCA is the nucleus of surviving medieval street pattern around the crossing of the River Welland and the later augmentation of settlement principally in the 17th and 18th Centuries accommodated within a patchwork of earlier timber-framed buildings and medieval churches. At the fringes of the conservation area later 19th Century developments add to the rich and varied architectural quality of the historic core of the town. There is a notable unified appearance to the buildings in the SCA resulting from the

¹ APP/E2530/W/17/3181823

² APP/E2530/W/20/3251520

widespread use of Oolitic limestone and Collyweston slate. Overall, there is a good intactness, and therefore ability to discern, the historic core of the town.

9. The appeal site is part of a transition from the edge of the core historic settlement at Stamford into a patchwork of rural fields to the south-west of the town. Whilst development has now extended along both sides of Kettering Road to the west as far as the modern buildings at the Stamford Junior School complex and the various sports grounds on both sides of Kettering Road, the frontage of the appeal site still preserves the transitional character.
10. Recent residential development has occurred in this location. This includes the residential estate development at Hereward Place on the north side of Kettering Road, diagonally to the north-west of the appeal site. This modern housing is directly adjacent to the SCA and the Fryers' Callis listed building. It comprises a mix of housing heights, including several tall 3 storey dwellings, directly onto Kettering Road with negligible front garden or amenity areas. This development is prominent in views out of the SCA that also include the appeal site. It exerts a strong urbanising influence on the character of this part of Kettering Road, which I understand to be a consequence of the redevelopment of a former football ground on the site. As such there would have been particular circumstances around the efficient reuse of the site such that I do not consider the dense, urban form should set the pattern for other development on this part of Kettering Road.
11. Opposite, Hereward Place, recent housing development has taken place at St Michaels Fields on land immediately to the west of the appeal site. This development comprises of substantial, detached dwellings including two very wide dwellings fronting onto Kettering Road. The frontage dwelling in this development adjacent the appeal site is a tall 2½ storeys and the other frontage dwelling is an imposing 2 storeys. Whilst these dwellings are moderately set back from the highway there is little structural landscaping, in part to maintain highway visibility from the access road into the development. As such, these dwellings, in combination with those opposite at Hereward Place, have appreciably eroded the sense of rural transition at this edge of the SCA.
12. The consequence of this recent pattern of development on Kettering Road means that the verdant character of the appeal site frontage serves a notable remnant of the important interface between the historic core of the town and its original countryside edge. It does so at a point directly adjacent to the conservation area boundary. As such I find that this frontage character does make a telling contribution to understanding the heritage significance of the Conservation Area.
13. At present there is solid hoarding erected along the appeal site frontage onto Kettering Road but this does not diminish the presence of a wedge of established vegetation along the northern boundary of the appeal site. From the submitted plans, this vegetation would be removed to create an open, set back character similar in nature to the recent adjacent development at St Michaels Fields. Additionally, an access road to serve proposed plots 3 and 4 and separate driveways to serve the frontage plots would be created onto Kettering Road together with a frontage footway. The proposed 2 ½ storey dwelling on plot 1 and the proposed 2 storey dwelling on plot 2 and the resulting loss of verdant vegetation would be conspicuous, including in views

out of and into the SCA. Accordingly, the appeal proposal would result in a significant change in character and appearance. It would result in the loss of a remaining vestige of the transition from edge of historic settlement to countryside at this location, further consolidating the recent urbanisation along this part of Kettering Road.

14. As set out above the planning history to the appeal site is a material consideration. However, both the recent August 2020 appeal scheme and the LPA approved June 2020 scheme both retained a denser pattern of vegetation along the Kettering Road frontage and only one point of vehicular access. Both schemes struck a better balance, in my view, in sensitively accommodating development on the appeal site whilst retaining the transitional frontage character adjacent to the SCA. Similar also applied in the case of the February 2018 appeal scheme, which also only incorporated a footpath entrance on the frontage at this location. These are appreciable differences to the proposal before me which significantly limit the available fall-back options as a basis to justify the harm that would arise from the appeal scheme.
15. Overall, I find there would be harm to the setting of the Stamford Conservation Area and the understanding its heritage significance. The harm would be less than substantial and towards the lower end of any spectrum of harm.
16. To the north of the appeal site on the opposite side of Kettering Road is Fryers' Callis, a Grade II listed building. It is a single storey structure dating from 1833 comprising a row of individual dwellings as almshouses. Its heritage significance stems in large part from its architectural quality including solid chimney stacks, handsome finials to the three gables and a good quality of detailing to the openings and inclusion of crests in the stonework to the upper part of the gables facing towards the appeal site.
17. Whilst I recognise that the immediate setting of Fryers' Callis has been altered by the directly adjacent modern residential development to its north and west at Hereward Place, the verdant frontage of the appeal site nonetheless makes a positive contribution to the setting of the building and understanding its historical peripheral context. Accordingly, the loss of vegetation and the cluttered arrangement of various vehicular accesses and the visual dominance of the scale and massing of the proposed dwellings on plots 1 and 2 would harm the setting of Fryers' Callis. The harm would be less than substantial, and it would be towards the lower end of any spectrum of harm.
18. The Burghley Bottle Lodges are located a short distance to the south-east of the appeal site, separated by an intervening pastoral field, hedgerow boundaries, the existing modern residential development on Pinfold Lane immediately to the east of the appeal site and the wide alignment of the former Great North Road (now the B1081 London Road). The lodges and gateway are of an impressive scale, the octagonal lodges being a tall 3 storeys in height topped ogee shaped stone cupola roofs flanking an imposing central stone archway for carriages and adjoining pedestrian arches, topped with decorative stonework comprising family crest and various finials. The heritage significance of the lodges and gateway is their superb architectural quality and status in symbolising what was conceived as an imposing carriageway entrance to Burghley Park from this edge of Stamford and from London Road. The lodges are set back from the highway at a slightly elevated position with open grassland to the front to maintain their presence.

19. Part of the setting of the lodges is towards open countryside to the west of London Road including the appeal site. From my observations on site whilst I found that there would be negligible intervisibility in the immediate setting of the lodges and gateway due to topography and intervening hedgerow boundaries the lodges are nonetheless orientated to face the green gap between Stamford and Wothorpe towards the Welland valley floor including the appeal site. As such the appeal proposal would erode the wider countryside setting of the Burghley Bottle Lodges. Again, the harm would be less than substantial and very much towards the lowest end of any spectrum of harm.
20. In conclusion on heritage matters I find that there would be harm to the character and appearance of the surrounding area including the setting of the adjacent Stamford Conservation Area and separately the setting of Fryers' Callis and Burghley Lodges (West Gate) and Gateway Arches, both Grade II listed buildings. The appeal proposal would therefore be contrary to Policy EN6 of the South Kesteven Local Plan 2020 (the SKLP) and Policy 8 of the SNP. These policies require the protection and enhancement of heritage assets and their settings through high quality and sensitive design and in accordance with national planning policy. Accordingly, it would also conflict with the objective of the National Planning Policy Framework (the NPPF) at Section 16 to conserve heritage assets in a manner appropriate to their significance recognising that heritage assets are an irreplaceable resource.
21. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special regard to the desirability of preserving a listed building or its setting. This is a stern test and as such it is incumbent that I attach considerable importance and weight to the harm that has been identified. More widely, when considering both listed buildings and the conservation area, the NPPF at paragraph 199 states that great weight should be given to an asset's conservation irrespective of the level of harm identified.
22. The level of harm would be less than substantial and towards the lower end of any spectrum of that harm. Policy EN6 of the SKLP states that any harm to the setting of heritage assets will only be granted planning permission where the public benefits of the proposal outweigh the potential harm. This is consistent with paragraph 202 of the National Planning Policy Framework (NPPF). I address the heritage balance in the concluding section at the end of this decision.

Public Footpaths

23. The appeal site is diagonally dissected by public footpaths Nos. 14 and 15 which connect from Kettering Road at the north-east corner of the appeal site to nearby settlement in the parish of Wothorpe. At present the character of footpath 14 is mixed, passing through the small field of the appeal site before cutting between newly built houses at St Michael's Fields to the west and then finally crossing an open field to reach the nearest houses in Wothorpe. In contrast footpath 15, is more rural in character, crossing directly over the field at the appeal site before ascending along the hedge line across fields to First Drift in Wothorpe. From my observations both footpaths appear to be very well used and both provide a pleasant experience for walking the relatively short distance between Stamford and Wothorpe. Both paths currently afford views within the appeal site in which the upper parts of the Burghley Bottle Lodges are visible, providing a sense of place and relationship to the Burghley estate.

24. The appeal proposal would divert both paths along the highway frontage on Kettering Road and then down the western boundary of the site with footpath 14 forking off after a short distance on this boundary to follow its existing route through the housing at St Michael's Fields. Whilst views of the Bottle Lodges are limited to short stretches of both paths, they would be lost as a result of this re-routing, particularly due to the position of plot 4 and the need to maintain privacy to the rear garden of plot 4 from the adjoining diverted footpath 15. Accordingly, I find the appeal proposal would detrimentally alter the character of both paths such that the quality and experience of using them would be diminished as a result of being squeezed between new homes and the loss of the view towards the distinctive lodge buildings.
25. I note that the principle of diverting the paths on the appeal site has previously been established to accommodate residential development on the site. This includes comprehensively re-routing both paths in the February 2018 appeal scheme so that they would both be largely enveloped within residential development and views to the Burghley Bottle Lodges lost. Furthermore, the August 2020 appeal scheme would moderately divert footpath 14 through the housing, albeit broadly on a similar alignment. The August 2020 appeal scheme would also significantly realign footpath 15 so as to dogleg through the new housing before following the western boundary. However, the layout in this scheme preserved the views of the Bottle Lodges which is a significant material difference, mitigating in some part any harms arising from the proposed re-routing. The same would not apply for the appeal proposal.
26. I therefore conclude that the proposal would have a detrimental effect on the quality and experience of using public footpaths as part of the network of green infrastructure in this part of the District. Accordingly, the proposal would be contrary to Policy EN3 of the SKLP.

Other Matters

27. As set out above, the appellant has submitted a UU signed and dated 29 November 2022 containing provisions under S106 of the Act for an obligation that would provide for a financial contribution towards the provision of affordable housing. The LPA has confirmed that the obligation would accord with the requirements of Policy H2 of the SKLP and I have no reason to disagree. In all other respects I find the submitted UU to be in order as a Deed and the obligation would meet the lawful tests³. Accordingly, I have taken the planning obligation into account in, firstly overcoming the LPAs related reason for refusal and secondly, in terms of the wider public benefit of supporting affordable housing delivery being a material consideration weighing in favour of allowing the appeal.

Balances and conclusion

28. As set out above, I have found less than substantial harm in respect of the heritage significance of various assets in relation to their setting. Any harm, even at or towards the lowest end of the spectrum of less than substantial harm should be given great weight in the decision-making process and will require clear and convincing justification (NPPF paragraphs 199 and 200).

³ Community Infrastructure Levy Regulations 2010 (as amended) – Regulation 122(2)

29. In terms of the public benefits to be weighed against the harm identified, the appeal proposal would result in a modest social benefit from the delivery of four additional dwellings. I also ascribe moderate weight to the social benefit arising from the financial contribution towards affordable housing delivery. The scale of contribution is proportionate to the modest level of housing proposed in the appeal. There would also be a small economic benefit arising from the construction of the dwellings and the expenditure in the local economy from future occupants of the proposal. I also give limited weight to the benefit of additional footway provision along Kettering Road given that it is relatively easy to cross Kettering Road where the public footpaths currently emerge. Accordingly, in applying the required heritage balance in SKLP Policy EN6 and at paragraph 202 of the NPPF I find that the cumulative limited public benefits would not outweigh the heritage harm identified.
30. Section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended) requires that applications for planning permission are determined in accordance with the development plan, unless material considerations indicate otherwise. The appeal location benefits from an up-to-date development plan, including the recently made SNP. For this reason, in combination with the heritage harm identified, the presumption in favour sustainable development at paragraph 11d) of the NPPF does not apply. The harms identified and the resulting conflict with development plan policy on both main issues for this appeal provide a clear reason for refusing the development proposed.
31. As set out above, the appeal site benefits from planning permissions that have been assessed as comprising a sustainable form of development at the appeal site. There are material differences in the layout of these approved developments which significantly reduces their comparison to the appeal proposal before me. The differences are such that it is understandable that alternative balances of benefits versus harms have been identified, particularly in the February 2018 appeal scheme. The generally limited benefits of the appeal proposal do not allow for a comparable balancing outcome. Therefore, I attach limited weight to the available fallbacks in providing a basis for allowing the appeal proposal.
32. Overall, for the above reasons and having regard to all other matters raised, I conclude that the appeal should be dismissed.

David Spencer

Inspector.