



Appeal Decisions

Site visit made on 26 September 2023

by A Edgington BSc (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 23rd October 2023

Appeal A Ref: APP/P3040/W/22/3312011

Wiverton Hall, Wiverton, Bingham Road, NOTTINGHAM NG13 8GU

- 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 M Keshavji against the decision of Rushcliffe Borough Council.
 - The application Ref 21/01986/FUL, dated 30 June 2021, was refused by notice dated 27 May 2022.
 - The development proposed is Use of ground floor reception rooms as pop-up boutique wedding venue (and associated use of land to provide event parking).
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Appeal B Ref: APP/P3040/W/23/3321370

Wiverton Hall, Wiverton, Bingham Road, NOTTINGHAM NG13 8GU

- 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 M Keshavji against the decision of Rushcliffe Borough Council.
 - The application Ref 22/02064/FUL, dated 26 October 2022, was refused by notice dated 9 December 2022.
 - The development proposed is Proposed widening of inner gate pier entrance from 3.3 metres to 4.8 metres.
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Appeal C Ref: APP/P3040/Y/23/3321371

Wiverton Hall, Wiverton, Bingham Road, NOTTINGHAM NG13 8GU

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Mr M Keshavji against the decision of Rushcliffe Borough Council.
 - The application Ref 22/02065/LBC, dated 26 October 2022, was refused by notice dated 9 December 2022.
 - The works proposed are Proposed widening of inner gate pier entrance from 3.3 metres to 4.8 metres.
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Decisions

1. Appeals A and B are dismissed.
2. Appeal C is dismissed and listed building consent is refused.

Preliminary Matters

3. There are three appeals before me. They are related insofar as they are linked to proposed works at Wiverton Hall, and the appeal site for Appeals B and C sits within the appeal site for Appeal A. As such, to avoid duplication I have dealt with them together where appropriate.
4. The Council has recently concluded a period of consultation which proposes the designation of a conservation area to include the appeal site and surrounding

area. However, there is nothing before me to indicate that it has been adopted. As such, I have proceeded on the basis that the site does not fall within a conservation area.

5. Part of the appellant's submission suggests that the site is within the Green Belt. However, there is no reference to the Green Belt in the officer's reports and I have concluded that the site is outwith the Green Belt.

Main Issues

6. The main issues are:

- Whether the proposals would preserve the Grade II* listed Wiverton Hall including service range to rear left, the Grade II listed Paddock Cottage Stable Range north-north-west of Wiverton Hall, or any features of special architectural or historic interest which they possess, including settings, and the settings of the Moated Site and Fishponds, and the Civil War Gun Battery Scheduled Monuments (Appeals A, B and C);
- The effect of the proposals on the living conditions of occupiers of other dwellings in Wiverton (Appeal A); and,
- The effect of the proposals on highways safety (Appeals A, B and C).

Reasons

Heritage Assets

Wiverton Hall

7. Wiverton Hall (the Hall) is a small country house converted from a former turreted stone ashlar gatehouse in 1814, in a Tudor revival style. The current building presents a stylish principal façade facing a carriage drive and open fields, with older stone construction including the round turrets of the original gatehouse, evident to the sides and rear. It is located within the remnants of a historic parkland landscape which also includes important earthworks and formations linked to the earlier development of the estate, and is surrounded by open farmland and occasional blocks of woodland.
8. A two-storey service range, now Wiverton Hall Cottage (Hall Cottage) is attached on the western elevation and has a stucco finish and a pitched slate roof.
9. The Hall is the focus of Wiverton, a discreet cluster of around 15 dwellings, some converted from former ancillary and service ranges, all located within a rural setting, and accessed from the original entrance on Bingham Road via a narrow single lane driveway.
10. There is a documented history of human activity on the site which dates back to Roman times, and which includes a medieval manorial complex within a moated structure, a later hall with associated gatehouse seemingly located under what is now the stableyard, the building of the Hall and the construction of Civil War gun emplacements. The evolution of the site has a long association with the local Chaworth and Musters families, and the inception of the original estate appears to date back to the granting of lands to Norman lords by William the Conqueror.

11. The significance of the Hall is therefore derived from its position as the spatial and economic focal point of a complex and prolonged history of human activity, reflecting significant episodes in British history. There is also significance to be derived from the aesthetic value of the current country house, the intact historic fabric which reflects different building periods, building function, use of materials, and the communal and evidential value arising from the Hall's potential to yield evidence about the estate's evolution and occupiers.
12. The Historic England (HE) guidance¹ states that any assessment of setting should consider the asset's intangible associations with its surroundings and patterns of use, and the contribution made by noise to significance.
13. In this case it is clear from the documentation before me that the history of human activity on the site extends well beyond the footprint of the Hall. A holistic understanding of Wiverton includes the network of informal and rustic routes which link the Hall and clusters of former service buildings within the wider setting of the former historic parkland and its earthworks. The appreciation of Wiverton and its wealth of heritage assets is therefore intrinsically linked to its undeveloped character. This provides a tranquil and intimate setting for the Hall as well as the other listed buildings and monuments, and contributes to significance.

Paddock Cottage Stable Range North North West of Wiverton Hall

14. The two-storey stable range is arranged around three sides of a courtyard, and comprises several attached dwellings of stone rubble and brick construction, under a continuous blue slate roof with a central gable with clock. Although listed as dating from the early 19th century, it is also suggested that the range was built on the remains of building associated with the earlier manorial complex.
15. The significance of the stable range is derived from its attractive vernacular styling and modest scale which reflects the deployment of local building materials and an underlying subservience in relation to the Hall, reflecting its former ancillary function within the estate.

Drive Entrance

16. The vehicular access to Wiverton is a long tree lined avenue, framed at the Bingham Road entrance by a surprisingly modest pair of low curved coursed rubble stone walls and piers with pyramidal capstones. One wall has been damaged, apparently caused by a traffic accident. The current piers are about 3.5 metres apart, and the opening is reduced slightly by the overhang on the capstones.
17. HE advice² states that the curtilage of a principal building is in general terms any area of land and other buildings that is around and associated with that principal building. The heritage statement notes that the entrance walls were built to mark the entrance to Wiverton Hall at the time of its early 19th century rebuilding, and were intended to illustrate the Hall's historic, social and economic status. As such it is unclear why the heritage statement then appears to conclude that the entrance walls have no known functional or historic

¹ The Setting of Heritage Assets, Planning Note 3

² Listed Buildings and Curtilage, Advice Note 10

associations with, or fall within the curtilage of, the designated heritage assets within the Wiverton Hall site.

18. The courts have found that there are three key factors to be taken into account in assessing whether a structure or object is within the curtilage of a listed building. These are the physical layout of the listed building and the structure; ownership, both historically and at the date of listing; and the use or function of the relevant buildings, again both historically and at the date of listing.
19. There does not appear to be a dispute in relation to the building date of the entrance walls, or their purpose. Moreover, there is nothing to suggest that they have ever been in different ownership from the Hall. Consequently, I conclude that the entrance walls are curtilage listed.
20. The Hall's principal and rather formal elevation is a key feature in the open landscape when approaching Wiverton from the south, and makes a grand statement in the largely open agricultural landscape. The entrance and the avenue, which lead to the Hall from the west, appear understated by comparison and it is not immediately apparent that the two are related. Nonetheless, the lack of formal signage, apart from small stone plaques on the piers, and the narrowness of the opening indicates that this is a private estate.
21. Although the entrance structures are low key in form and extent, they frame the long views along the avenue and mark the end of the treed avenue which is itself a strong feature in the landscape. The lack of ostentation or public display at the entrance downplays the quality and importance of the Hall and its former grounds and history, which reinforces an appreciation of the estate's tranquil and undeveloped nature.
22. The significance of the drive entrance is therefore derived from its simple and authentic layout and intact historic fabric, as well as its architectural and aesthetic contribution to the parkland and its functional association with the Hall and the development of the estate.

Scheduled Monuments

23. The Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) does not specifically set out a statutory duty in relation to scheduled monuments. Nonetheless they are designated heritage assets.
24. There are two areas of earthwork to the south and east of the Hall's turning circle which are described as earthworks associated with a former civil war gun emplacement, and the remains of a raised covered way on the footprint of a medieval trackway.
25. To the north of the field proposed car park are earthworks associated with a manorial moated site, likely to have been constructed in the 13th and 14th centuries and associated with the granting of land and manors to William Peverel and Walter de Encourt, and which later passed to the Chaworth family. Documentation indicates that the manorial complex survived until the Civil War, and that the original manor house was located within the moated site.
26. The significance of the scheduled monuments is derived from the extents and formations of the remaining earthworks, as well as their spatial relationship with other designated heritage assets and the surrounding parkland.

27. Collectively, the heritage assets within Wiverton contribute to a fuller appreciation of the estate's history and each provides reciprocal and overlapping influences on the settings of other assets.

Proposals and effects – Hall

28. The proposals comprise the holding of wedding events. The car park would be positioned on what is now an open field, but which the heritage statement notes was formerly part of the Hall's historic parkland. The parking area would be more or less screened from nearby dwellings by mature vegetation.
29. It is proposed that the events would take place on the Hall's ground floor. The Council's concern appears to be related to the comings and goings of guests, organisers and caterers rather than to the holding of events within the Hall. In principle I see no reason to disagree.
30. All visitors would be required to access the Hall along the avenue and then move between the designated parking area and the Hall, on narrow drives that are currently unlit and which consist of largely unbound surfaces lined by mature vegetation.
31. The timeline of entry and exit from the site would extend beyond that of the event itself as caterers and supplies and other preparation works would need to be put in place in advance and then dismantled and removed afterwards.
32. The evidence indicates that there would be a maximum of 16 events annually. Given that the parking area is designed to accommodate 50 vehicles, with wedding guests limited to a maximum of 60, this would represent a significant increase in numbers using the site compared to Wiverton's permanent population. The likely vehicular and pedestrian traffic generated would be of a much greater magnitude than is currently experienced. This would represent a significant intensification of use and detract from the Hall's very special setting during the events as well as the setting up and winding down periods. For each event there would be a considerable intrusion of comings and goings, with associated noise and disturbance.
33. I have found that the Hall's uniquely peaceful and remote setting contributes to its evidential and communal values. The notable increase in vehicular and pedestrian traffic generated by the proposals would result in harm to this element of significance, amounting to less than substantial harm. However, as the events would be sporadic, I conclude that the magnitude of harm would be towards the middle or lower end of the spectrum of less than substantial harm. Nonetheless, Paragraph 199 of the National Planning Policy Framework (the Framework) states that great weight should be given to an assets' conservation irrespective of the category of harm, and the more important the asset, the greater the weight should be.
34. I acknowledge that historic buildings are often used as the focal point of commercial events. Nonetheless this is a site with a very special, distinctive and unusual ambience. Moreover, the physical distance between the Hall and the parking area would prevent the effective containment of event activity to the Hall itself.

Proposals and effects – Paddock Cottage Stable Range

35. The stable range is located a short distance from the Hall's rear elevation and is separated from it by a short garden and an access drive. Insofar as appreciation of the stable range would be affected by an intensification of use of the Hall's grounds as a whole, there would be an erosion of the tranquil character that contributes to the setting. However, as events would be sporadic, the less than substantial harm would be at the lower end of the spectrum.

Proposals and effects – drive entrance

36. The proposals would partially dismantle the stone piers and a section of adjoining walls to provide a wider opening. This would result in the loss of some historic fabric and the alteration of the original entrance configuration, currently appropriate to its period and context. The resultant entrance would be inauthentically wide, leading to an erosion of its integrity as the original and understated estate entrance. This would result in a loss of significance and would amount to less than substantial harm. Given that the integrity of the original entrance would be largely destroyed, the harm would be at the upper end of the magnitude of less than substantial harm.

Proposals and effects – scheduled monuments

37. The proposals would not directly affect the earthworks of the monuments and the county archaeologist has not raised a concern. Nonetheless, having found harm in relation to the effects of the development on the setting of the listed buildings, it would be inconsistent not to attribute harm to the setting of the ancient monuments on that same basis. The undeveloped and undisturbed grounds with their peaceful nature contributes to the setting and significance of these monuments. The proposals would amount to less than substantial harm in relation to the setting of the ancient monuments, at the lower end of the spectrum of that harm.

Heritage balance (Appeals A, B and C)

38. Paragraph 202 of the Framework sets out that where a development proposal will lead to less than substantial harm, this harm should be weighed against the public benefits of that proposal.
39. I appreciate that a wedding business could provide support for local businesses, but although there are some letters of support this does not necessarily provide objective evidence that there is unmet local demand for high-quality wedding venues or that additional venues are needed post-COVID. As such I give the public benefits arising from the economic benefits modest weight only.
40. It is also argued by the appellant that an additional income stream is required to safeguard the Hall's future as it requires ongoing maintenance. Costs amounting to around £379,000 have been given for works to the roof, windows and castellations, along with photographs of the roof space. However, these figures and photographs are not supported by quotations, or linked to a conditions survey, or a costed maintenance and remediation schedule. Nor do I have any financial information in relation to a proposed business plan or the likely revenue to be generated by the events, or how these might be used to fund remediation works and what those works would be. As such, on the basis

of what is before me, I am unable to assess how far the proposals might go towards safeguarding the Hall's future.

41. Moreover, this argument would appear to fall within the definition of enabling development, as set out in HE guidance³. This is development that would not normally be in compliance with local and/or national planning policies. The guidance specifies the information required by a decision maker in order to determine whether a case for enabling development exists. This evidence has not been provided.
42. As such, although it seems likely in principle that the Hall's ongoing maintenance could be at least in part funded by a wedding business, there is a distinct lack of clarity in this regard. I am unable to conclude that the proposals would amount to public benefits sufficient to outweigh the harm identified above in relation to the heritage assets.
43. I appreciate that opening up the Hall could increase its appreciation, but this is not necessarily predicated upon its use as a wedding venue. In any case, guests would be visiting for the event and would not necessarily have a particular interest in the assets or their history.
44. The appeal statement for Appeals B and C sets out that the reason for the proposed entrance widening is that the current width of the gate creates a narrow pinch point through which only one vehicle can pass. However, at my visit the drive was devoid of vehicles for long periods of time and there is no evidence that the entrance constitutes a bottleneck for traffic associated with the existing comings and goings at Wiverton. The transport assessment also sets out that Bingham Road has relatively low traffic flows, even in peak hours.
45. The argument is also advanced that widening the entrance would mitigate damage caused to the piers, namely the clipping of one of the capstones and scraping along an internal face and that this would amount to public benefits sufficient to outweigh the harm identified above. However, the existing entrance is wide enough to accommodate commercial and bin lorries with some margin and it seems to me that the previous damage to the piers has been caused by carelessness. I am aware that other measures could be taken to ensure vehicles approach the entrance at a sensible angle and/or to provide ground level barriers. As such, the concern raised in relation to damage could be mitigated by other means.
46. Moreover, there is good visibility on each side of the entrance, and I see no reason why vehicles could not wait within the site to allow incoming traffic to have priority if waiting outside the entrance was considered to be a highway safety concern. This is a standard arrangement at other heritage sites.
47. There is no evidence that the vehicular damage to the side wall would have been avoided if the entrance was wider, and I see no reason why the repair of that damage should be predicated upon widening the entrance.
48. The tracking set out in the transport assessment indicates that panel vans and a minibus could clip the piers in their existing position. However, I noticed a panel van entering the site at my visit and it did not appear to have difficulty. Moreover, the tracking suggests that even if the entrance did need to be widened, it would not necessarily need to be widened to 4.8 metres. Given

³ Enabling Development and Heritage Assets, June 2020

there are other residents at Wiverton who presumably engage contractors with large vehicles from time to time, it seems that if this was a concern the entrance widening would have support from other residents. Consequently, on balance the evidence does not conclusively show that the entrance needs to be widened to the extent proposed to prevent further damage.

49. I have set out above my concerns in relation to the harm to the heritage significance of the entrance walls and piers which would arise from the proposed widening. The highway safety merits of widening the entrance are assessed further below.
50. As such I conclude that the less than substantial harm identified above would not be outweighed by public benefits. The proposals would be contrary to Sections 16 and 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) which require the decision maker to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest. There would also be conflict with Policies 11 and 28 of the Core Strategy (CS) and Local Plan (LP) respectively which taken together require proposals to conserve or enhance heritage assets and their settings. The proposals would also fail to accord with the guidance set out in Paragraphs 200 and 202 of the Framework with regard to designated heritage assets.

Living conditions

51. The Hall and its former service buildings, together with new build dwellings, are now family homes. Although the Hall's principal elevation is visible from the lane across the fields, the surrounding dwellings are nestled in mature vegetation and largely unseen from the public domain. There is a distinct sense of tranquillity and the feeling of a rather select enclave of families living in close proximity to each other but remote from the wider community dispersed across the surrounding countryside.
52. The height, scale and impressive styling of the Hall dominates the more modest dwellings arranged around the stableyard and a smaller courtyard to the Hall's immediate west. Hall Cottage, located in the smaller courtyard is attached to the Hall to the extent that it has a flying freehold at first floor level.
53. It is proposed that the weddings would be contained within the Hall's internal accommodation, which would make a grand and highly attractive setting. However, although it is stated that garden areas adjacent to the Hall would be roped off to prevent their use by guests, I conclude that it would be difficult to prevent guests spilling out from the reception rooms into the adjoining garden areas, particularly in warm weather. This would result in noise and disturbance for dwellings in the stable range, which would be very apparent in this quiet rural setting, and particularly in the late evening.
54. Moreover, the caterers would be using a room at the rear of the Hall. Even if the preparation room was not accessed from the rear lane leading to the stableyard, the door might be open in warm weather, again allowing noise to be heard by occupiers of adjacent dwellings.
55. Furthermore, to reach the car park, guests and other staff would walk along the lanes and potentially close to the gardens of the nearby dwellings, particularly if they were not effectively marshalled. I also note that the

discussion concerning possible conditions anticipates events continuing after midnight, so presumably guests and other staff would be moving to the car park and leaving the site in the small hours, with attendant noise and vehicle lights.

56. The appellant has suggested that conditions could be imposed to manage noise levels, the number and frequency of events, and restrictions on operating hours. However, there is limited technical evidence provided and I am unable to assess whether conditions could provide effective mitigation. Even if controls could be imposed and enforced with regard to internal sound systems, it remains that there would be considerable noise and disturbance outside the Hall associated with the arrival and movement of organisers, equipment, stewards, guests and vehicles. It is difficult to see how conditions could control noise arising from people chatting or laughing as they walk to the car park, and then the noise and light emanating from moving vehicles.
57. I see no compelling reasons to justify the likely degree of disruption and harm to the living conditions of the other occupiers of Wiverton, especially when the proposals do not benefit them in any way. I also note that the appellant intends to vacate the Hall when the events are held, even though the Hall's first floor accommodation would not be used. Whatever the reasoning behind this intention it suggests that there is an acceptance that the events would result in inherent disturbance.
58. Wiverton is a remote settlement in a rural location, contains no significant or existing commercial functions as far as I am aware, and consequently has a very low level of underlying activity. It is primarily a residential development, with private dwellings which are close or attached to the Hall, but unrelated to it. What is proposed would be a significant commercial venture and one which would be very much at odds with Wiverton's prevailing quiet and tranquil character, amounting to considerable disruption. It would therefore have a significant and detrimental impact on the living conditions of other occupiers of Wiverton. Although some mitigation is proposed to reduce the magnitude of that disruption, I am unable to conclude that even with that in place the other residents would not be subject to unreasonable levels of disturbance.
59. In any case, some of the mitigation proposals lack clarity or supporting technical information and others appear to be predicated upon the goodwill of guests and the ability of marshals and stewards to maintain order and limit activity to specific areas of the property. This does not engender confidence that the mitigation would be wholly effective.
60. Consequently, the proposals would conflict with CS Policy 1 and LP Policy 1 which taken together set out the safeguarding of residential amenity, and CS Policy 10 which sets out to ensure development makes a positive contribution to local identity and sense of place.

Highway Safety (Appeals A, B and C)

61. The arguments advanced by the appellant in relation to Appeals B and C include the benefits arising from improved highway safety. These arguments are partly addressed in my reasoning in relation to the heritage assets.
62. The highway authority has objected to Appeal A and the establishment of the events business, on the basis that the entrance would need to accommodate

two running lanes for highway safety. This would ensure that vehicles did not need to wait on the highway whilst oncoming vehicles exit the site.

63. However, it seems to me that apart from the occasional vehicle with supplies and equipment, most traffic associated with the events would be generated at the start and finish, and the flow would largely be in one direction, either entering or leaving the site. There is nothing before me to indicate that there would be periods of two-way traffic needing to enter the site sufficient to require two running lanes at the entrance, and Bingham Road has a relatively low traffic flow even in peak hours.
64. Although there is accident history related to a driver exiting the site and turning right, there is nothing before me to indicate that proposed traffic flows would represent a serious hazard to road users. Moreover, it seems to me that temporary increases in traffic flow could be adequately managed by marshals, as suggested in the evidence.
65. The highway authority requires the entrance to have a gap of 4.8 metres in line with its guidance. However, this appears to be the guidance for shared private drives with a maximum of five dwellings. This entrance services around 15 dwellings and as such the guidance indicates that the minimum gap should be 5 or 5.5 metres. In any case, a gap of 4.8 metres would be similar to two standard parking bays. Such a gap does not necessarily give drivers sufficient comfort to pass alongside each other at anything other than a reduced speed. As such, I am not satisfied that a gap of 4.8 metres would allow the free running of two-way traffic, even if it was deemed to be necessary to accommodate the traffic associated with the event.
66. I see no compelling highway safety reasons associated with either the existing or proposed traffic generation sufficient to amount to public benefits to justify the works to the entrance. Even if the appeal was allowed, the increased flow of traffic would occur intermittently and could be managed by other means. My conclusions in relation to highway safety appear to be reinforced by a discussion between residents, the highway authority and Via which concluded that widening the entrance would not have any impact on highway safety.
67. I conclude that the development would not have an adverse effect on highway safety and would not be contrary to LP Policy 1 or Paragraph 111 of the Framework in that regard.
68. The Council has also cited CS Policy 14 which is concerned with sustainable travel but has not identified a particular conflict with this policy. I conclude that CS Policy 14 weighs neither for nor against the development.

Fall-back position

69. The appellant advances the argument that the same number of events, or indeed larger events, could be held in a marquee located on the land proposed for the temporary car park without the need for formal permission. This is being presented as a fall-back position.
70. The appeal statement refers to Class B, Part 4 Schedule 2 of the General Permitted Development Order 2015 in this regard. This sets out that land may be used for any purpose for 28 days in a calendar year, and includes provision of moveable structures for the purposes of the permitted use. Development is

not permitted by Class B if the land in question is within the curtilage of a building.

71. Curtilage is a very broad term which is not necessarily predicated on size, or distance from a building. The courts have found that its use is generally a matter of fact and degree and the judgement of the decision maker. Nonetheless, even if the field is considered to be outside the Hall's curtilage, the offering of a wedding event in a field marquee would be a very different proposition from the appeal proposal, which uses the historic interiors of the listed building as a key marketing attraction. The proposed fall-back position would be likely to attract a different customer base. As such, although I accept that this could constitute an alternative business proposition, it would not be comparable to what is before me and consequently it carries limited weight in my reasoning.

Biodiversity

72. The appeal statement sets out that the proposals would result in biodiversity net gains arising from planting works. However, these would be minor benefits and would be insufficient to outweigh the harm identified above.

Other matters

73. I also appreciate that the current proposals have been scaled down from a previous application. However, this does not alter my reasoning and each appeal is determined on its merits.
74. There is a wealth of concerns raised by interested parties. However, as I have found harm in relation to the main issues there is no need to assess those concerns in any more detail.

Conclusion

75. In the light of the above, I conclude that even if there was compelling evidence that the income generated by the venture could secure the Hall's future, and provide public benefits, this would be insufficient to outweigh the harm arising to the living conditions of other residents. I conclude that the proposals conflict with the local development plan, the Framework and the Act and there are no material considerations of such weight to lead me to conclude otherwise.
76. Appeals A and B are dismissed.
77. Appeal C is dismissed and listed building consent is refused.

A Edgington

INSPECTOR