



Appeal Decision

Site visit made on 8 June 2023

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 November 2023

Appeal Ref: APP/W2845/W/22/3306799

**Land at corner of Gold Street and Naseby Road, Clipston,
Northamptonshire LE16 9RG**

- 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 Fountain Homes Limited against the decision of West Northamptonshire Council.
 - The application Ref DA/2020/0306, dated 4 June 2020, was refused by notice dated 5 May 2022.
 - The development proposed is the construction of one dwelling and associated access, wildlife corridor and landscaping.
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Decision

1. The appeal is dismissed.

Preliminary and Procedural Matters

2. The planning application for the appeal scheme was submitted to Daventry District Council in 2020, which on 1 April 2021 was merged with Northampton Borough Council and South Northamptonshire District Council into a new unitary West Northamptonshire Council. The development plan previously in place for Daventry district continues to have full effect in that part of West Northamptonshire. The Clipston Conservation Area ("the CCA") was designated in March 2021, while the Clipston Neighbourhood Plan ("the CNP") was made part of the development plan in December 2021.
3. The scheme was described on the planning application form as a "proposed residential development of 4 no. dwellings and associated access, wildlife corridor and landscaping works". It was, however, amended while the application was being determined; in November 2020 the number of dwellings proposed was reduced from four to two, and in February 2022 it was reduced again to a single dwelling. The Council's decision notice described the proposed development as the "construction of 2 dwellings and associated access, wildlife corridor and landscaping (revised scheme)", though elsewhere on the decision notice and throughout the associated officer report the scheme was referred to as being a single dwelling. The same "2 dwellings" wording was subsequently also used on the appeal form. I have used a different description of development in the banner heading above so that it accurately reflects the scheme as it was ultimately considered by the Council, and as it is before me.
4. The appellant submitted further amended plans during the appeal, omitting two dormers previously proposed for the front roof slope. In deciding whether to accept these revised plans, I have given consideration to the "Wheatcroft

principles”¹ and whether any prejudice would occur. In this case, I consider that the revised plans make only limited changes, and I am satisfied that no prejudice would occur should I accept them. With that in mind, I have determined the appeal on the basis of the revised plans.

5. The decision notice gave a single lengthy reason for which planning permission had been refused; the matters it encompassed form the basis of the main issues identified below. It also referred to twelve development plan policies – from the 2014 West Northamptonshire Joint Core Strategy (“the JCS”), the 2020 Daventry Settlements and Countryside Local Plan (“the SCLP”), and the CNP, as well as the provisions of the National Planning Policy Framework (“the Framework”, and guidance in the 2021 CCA Appraisal Management Plan (“the CCA AMP”) – without linking them to a specific aspect of the reason for refusal. For clarity, in my reasons below I have referred only to the relevant policies for each of the main issues.
6. The Government published a revised Framework on 5 September 2023, replacing the version from July 2021. The amendments did not have any bearing on the issues in this appeal, and it was not therefore necessary to seek comments on them from the main parties. Where I have referred to specific paragraphs of the Framework, the numbers are those of the September 2023 version.

Main Issues

7. The main issues are whether the appeal site is an appropriate location for the proposed residential development, having regard to relevant local and national planning policies in respect of i) village confines, ii) protected open spaces and the CCA.

Reasons

8. The appeal site is on the northern side of Naseby Road at its junction with Gold Street, towards the western side of the settlement of Clipston. It is an area of open land with various trees (some of the which are protected by a Tree Preservation Order) and shrubs. I saw during my site visit that much of the site is covered by thick scrub growth, and there was also some evidence of fly-tipping having taken place. The site is bounded by housing to the north-west and east; there is also housing to the south across Naseby Road and to the west across Gold Street. To the north, separated from the appeal site by a public footpath, is an open field. The proposed development is a six-bedroom detached dwelling, along with access from Gold Street, a wildlife corridor and landscaping.

Village confines

9. Policy S1 of the JCS deals with the distribution of development within West Northamptonshire. It seeks to concentrate development primarily in and around the urban area of Northampton with development of a lesser scale in and adjoining the town of Daventry, while also providing for “the development needs of the rural service centres of Towcester and Brackley”; it also allows for only limited development in rural areas. Policy R1 of the JCS sets the spatial strategy for the rural areas with reference to the settlement hierarchy which, for the former Daventry district, was subsequently established in the SCLP.

¹ Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]

10. Clipston is defined as an “other village” in Policy RA3 of the SCLP; the same policy sets out the very limited circumstances in which development outside the village confines will be supported. Policy RA6 of the SCLP seeks to protect the open countryside, and describes the forms of acceptable development open countryside areas. For Clipston, Policy HBE1 of the CNP defines the village confines; the map within that policy shows that the appeal site is outside the village confines, and the proposed development would therefore be in the “open countryside” in the development plan’s terms.
11. The appeal scheme does not fall within any of the three circumstances in which paragraph B of Policy RA3 of the SCLP states development outside village confines will be acceptable. Even if I were to accept that the proposed development would comply with the further requirements for all development (whether within or outside the village confines) set out in paragraph C of Policy RA3, as the appellant argues, that would not overcome the fact that the development does not comply with the locational requirements of the policy read as a whole. The appeal scheme is also not one of the forms of development which Policy RA6 of the SCLP says will be supported in the open countryside.
12. The appellant considers that there is conflict between the SCLP and the CNP on this matter, but I do not agree. While the SCLP contains policies relating to village confines, it did not define the boundaries; until the CNP was made a decision-maker may therefore have needed to reach their own view on a case-by-case basis as to whether any particular development proposal related to land within or outside the village confines. Today, rather than conflict with the SCLP, on my reading of it the CNP provides a precise definition of the village confines for Clipston which had previously been absent.
13. In any case, even if there *were* the conflict which the appellant claims, planning legislation requires that conflict between development plan policies must be resolved in favour of the document which has more recently become part of the development plan². Here, that means the CNP. I am therefore in no doubt that for the purposes of the development plan, and for determining this appeal, the appeal site is outside the village confines.
14. An earlier proposal for a development of nine dwellings on the site was refused planning permission in 2018, and a subsequent appeal was dismissed in December 2019³ (“the 2019 appeal”). It is also of some note that the Council prepared a committee report for its March 2021 planning committee which recommended that the superseded two dwelling version of the scheme be granted planning permission, though a decision was deferred for further consultation at that time in the light of the designation of the CCA. Based on this history, it is a fundamental element of the appellant’s case “that the site falls within the village confines of Clipston, as accepted by the Planning Inspector [in the 2019 appeal] and also by officers of the LPA during the determination of this planning application”.
15. The 2019 appeal decision did not directly address the question of the village confines, but the Inspector’s view can be inferred as they found no conflict with Policy R1 of the JCS, which requires residential development in rural areas to be “within the existing confines of the village”. The Council’s March 2021 report

² Section 38(5), Planning and Compulsory Purchase Act 2004

³ PINS Ref: APP/Y2180/W/19/3222589

observed that the (then-emerging) neighbourhood plan “states that the site is located outside the confines of the village”, but also noted that the Inspector in the 2019 appeal had considered the site to be within the village confines. The report stated that “inconsistencies between the [2019 appeal decision] and the emerging neighbourhood plan” meant that “there still could be changes to the neighbourhood plan during its examination”. This consideration clearly led the Council to give more weight to the 2019 appeal decision than to the emerging CNP at that time, as its March 2021 report came down on the side of the appeal site being within the village confines.

16. However, I must determine this appeal with reference to the development plan as it stands today. The development plan has evolved significantly since December 2019, following the adoption of the SCLP, and again since March 2021 with the making of the CNP. As I have explained in paragraph 12 above, the question “where are Clipston’s village confines” can be answered by reference to the CNP with a precision which may not have been previously possible. These changes mean that my reaching a different finding to my predecessor on this issue is entirely justified.
17. The appellant suggested that, in the event of my concluding (as I have) that the site lies outside the village confines, Policy R1 of the JCS would still provide support for the scheme. This is on the basis that the housing requirement for the area has been met through planning permissions and allocations (a matter which is not disputed), and that the proposal would comply with the five criteria set out in the final part of Policy R1 for such situations. That is demonstrably not the case, however; the appellant’s statement acknowledges that compliance with the second criterion is moot, and that the site does not comply with the fourth and fifth criteria.
18. There is also in any event the question of compliance with the other relevant requirements of Policy R1. These are that residential development should be within existing village confines, and that development outside the existing confines will be permitted only in limited cases involving the reuse of existing buildings or “in exceptional circumstances, where it will enhance or maintain the vitality of rural communities or would contribute towards and improve the local economy”. The appellant has not argued that the proposal would comply with these requirements. Policy R1, when read as a whole, does not therefore weigh in favour of the appeal scheme.
19. The appeal site lies outside the village confines of Clipston, and none of the circumstances in which the development plan might support the development of housing in such a location has been shown to apply. Consequently, and having regard to relevant planning policies in respect of village confines, I find that the appeal site is not an appropriate location for the proposed development. The proposal therefore conflicts with Policies S1 and R1 of the JCS, Policies RA3 and RA6 of the SCLP, and Policies HBE1 and ENV3 of the CNP; I have described the relevant provisions of these policies in paragraphs 9 to 11 above.

Protected open spaces and the CCA

20. The appeal site is within the CCA which covers much of the core of Clipston, generally including the village’s historic buildings and the open spaces nearest to them, while excluding the most substantial areas of 20th century and later housing. I have a statutory duty under Section 72(1) of the Planning (Listed

Buildings and Conservation Areas) Act 1990 ("the Act") to pay special attention to the desirability of preserving or enhancing the character or appearance of the CCA. As heritage assets are irreplaceable, the Framework states that they should be conserved in a manner appropriate to their significance (paragraph 189). It goes on to advise that any harm or loss requires clear and convincing justification (paragraph 200) and that any harm that is less than substantial must be weighed against the public benefit of the proposal (paragraph 202).

21. In May 2013, before the CCA was designated, the Clipston Village Design Statement ("the CVDS") was adopted by Daventry District Council as a supplementary planning document ("SPD"). It identified Clipston's important public and private open spaces as vital characteristics of the village, integral to the creation and maintenance of its rural identity. The CVDS describes the "loosely knit and fairly dispersed" form of Clipston, and during my site visit I saw that the way "open spaces [appear] as tongues of green, in some cases extending right into [its] core" was an observable and distinctive positive characteristic of the village. The CVDS included only the rear, northernmost, part of the appeal site among the important open spaces⁴, describing it as "an area of mature trees which has been allowed to return to its natural state".
22. The AMP was adopted as an SPD in March 2021, on the designation of the CCA. Like the earlier CVDS, it emphasises the value of Clipston's public and private open spaces; they are described as being "important to the visual amenity of the conservation area whilst also contributing to the setting of individual or groups of historic buildings". It identifies the special interest of the CCA as being derived from several features, including its 19 listed buildings, the well-preserved earthworks of the medieval settlement of Clipston, the layout of roads and lanes in the village which has changed little since the 19th century, the small and irregular plots in areas of the village which are illustrative of their medieval origins, and the strong vernacular architecture of buildings dating from the 16th to 19th centuries. It identifies the whole of the appeal site as making a significant positive contribution to the CCA⁵, and its role in bringing the rural character of the surrounding countryside into the heart of the settlement is again highlighted.
23. As the CVDS and the AMP are SPDs, they provide guidance rather than set policy. However, the CNP is part of the development plan, and Policy ENV3 seeks to protect the village's important open spaces. The appeal site is one of eight "additional open spaces" described in the policy as making an essential contribution to the setting and character of Clipston. Policy ENV3 states that development of these spaces will be resisted unless the local benefit of the development can be shown to outweigh the existing open space value of the site.

Effect on protected open space

24. The proposed house would be set in the centre of the plot, approximately equidistant between the Naseby Road/Gold Street junction and the public footpath at the rear of the site. The low-growing scrub vegetation across the site would be removed, as would several trees⁶. This would undoubtedly

⁴ The appeal site is referred to in the CVDS as "Land opposite the Chestnuts (next to The Hollies)"

⁵ The appeal site is referred to in the AMP as "Land adjacent to 'The Hollies', Naseby Road/Gold Street"

⁶ The submitted Arboricultural Report (Revision G dated 3 February 2022) indicates that, of 62 trees or groups identified on the site, 29 would be removed; 27 of these were assessed as "not viable" (Category U)

increase the site's "openness", with some greater visibility into it possible from Naseby Road, Gold Street, and the footpath north of the site. The scheme would include a "wildlife corridor" with native shrub planting towards the rear of the site, and areas seeded with woodland wildflowers towards the front.

25. In the 2019 appeal decision the Inspector found that development of the site as proposed then "would allow for greater public views through the site from the public footpath to the north of the site and Naseby Road to the south", and that it therefore "could" – not "would" as suggested by the appellant – "enhance views through the site along with management of trees on the site". However, while the amount of built form in the scheme before me would be less than that considered by my predecessor in 2019, the VDS also offered a lesser degree of protection, and for a smaller part of the site, than the CNP does. As with the matter of the village confines, the significant changes to the development plan since the 2019 appeal decision justify my reaching a different finding in respect of protected open space.
26. The planting could be considered a local benefit of the scheme, as could the improved maintenance of the site and the discouragement of fly-tipping which would be likely to result from it being developed for housing (albeit that it was not explained why the residential development of the site would be necessary to achieve these benefits). Views into the site, however, would be dominated by the substantial form of the house itself; notwithstanding the proposed planting, the site would necessarily become much more domesticated and built-up than it is at present. This would severely diminish the extent to which the site physically and visually links the surrounding countryside into the village, which is such a significant part of its value as open space. I give the potential local benefits of the scheme appreciable weight in terms of the balance required by Policy ENV3, but do not consider that they would outweigh the existing open space value of the site.

Effect on CCA; heritage balance

27. The heritage assessment submitted by the appellant also emphasises that the proposed development would open up "historic views" through the appeal site. However, the principal views looking into the site from outside would be of a large house. The domestication of the site would mean that its current function as a green "tongue" bringing the countryside into the village, which is one of the positive characteristics of the CCA, would largely be lost. The character and appearance of the CCA would therefore be harmed, though given the size of the conservation area the harm to its significance would, in the Framework's terms, be less than substantial.
28. The proposed development would provide an additional dwelling, thereby making a very modest contribution to increasing the supply of housing in the area. There would also potentially be economic and social benefits in terms of supporting local services and business arising from the construction and occupation of an additional dwelling, although given the size of the scheme these would be likely to be small in scale.
29. The appeal site is currently in a somewhat unkempt state, with some evidence of fly-tipping having taken place; these matters (including safeguarding the retained trees through better management) would be improved by the proposal, although there is nothing before me to demonstrate why residential development is the only means by which they could be addressed. The

appellant has also put to me that there would be benefits in terms of improving biodiversity through the provision of a “wildlife corridor” towards the rear of the site.

30. While there would therefore be some appreciable public benefits of the proposed development they would be of a modest scale, and I afford them only moderate weight. However, the harm to the CCA should be afforded great weight. The public benefits do not outweigh the harm in this case, and the development would be contrary to the Framework in this regard.

Findings on this main issue

31. The proposed development would result in a loss of the appeal site’s open space value, which would not be outweighed by local benefits. The appeal site would not therefore be an appropriate location for the proposed development, and the proposal would conflict with Policy S10 of the JCS, Policies RA6 and ENV10 of the SCLP, and Policies HBE1 and ENV3 of the CNP. Together, and among other things, these policies seek to ensure that development enhances and reinforces local distinctiveness, makes a positive contribution to the special character of Clipston, and protects important open spaces.
32. The loss of the site as a valuable open space within the village would also be harmful to the character and appearance of the CCA. There would therefore be additional conflict with Policy BN5 of the JCS, Policy ENV7 of the SCLP, and Policy HBE3 of the CNP, which seek to ensure that heritage assets are conserved or enhanced. For the same reasons, the scheme would conflict with the provisions of the Framework which seek to conserve and enhance the historic environment.

Other Matters

33. Both parties have referred to The Chestnuts, a Grade II* listed building which stands on the opposite side of Gold Street to the appeal site. I have a duty under Section 66(1) of the Act to have special regard to the desirability of preserving the building or its setting or any features of architectural or historic interest which it possesses.
34. The Chestnuts was listed in 1954. It is a substantial house with two storeys plus attic and a double-depth plan, and is described in the official list entry⁷ as dating from the mid-18th century. Its attractive five-window front elevation and twin gables on the south side elevation are seen both in close views from the junction of Gold Street and Naseby Road, and when approaching from the heart of the village to the east, in longer views along Naseby Road. I consider that the special interest and significance of this listed building, insofar as is relevant to this appeal, is mainly derived from its age, fabric, architectural features and its plan form.
35. The historic built backdrop and verdant surroundings of the listed building, of which the appeal site forms part, positively contributes to its significance. Nevertheless, the proposed dwelling would be set back from the street, and trees would be retained along its frontage. I consider that the proposed development would not materially alter the ability to appreciate the special interest or significance of The Chestnuts, and I am therefore satisfied the

⁷ List entry number 1067034

contribution that setting makes to its special interest and significance would be preserved. I note the Council had no concerns in this regard either.

36. The Clipston medieval settlement Scheduled Monument⁸ covers extensive areas to the west, north and east of the existing village. In dismissing the 2019 appeal, the Inspector noted the absence of an archaeological field survey, and considered that it would be necessary to carry out on-site investigations in order to fully understand and plan appropriately for any archaeological evidence that may exist. The current appeal scheme was accompanied by an archaeology report which summarised the findings of a trial trench evaluation on the site; it identified no archaeological features of significance, and concluded that the site lay outside of the Saxon and medieval village core. The fieldwork for the evaluation was monitored by an archaeology adviser from (the now-abolished) Northamptonshire County Council. In determining the application in 2022 the Council was satisfied that, in archaeological terms at least, the site could be developed. None of the evidence before me leads me to take a different view on this point, and I am satisfied that no significant harm would arise in respect of the Scheduled Monument
37. The appellant has expressed concern with the Council's handling of the planning application, in particular the fact that its position has shifted since the 2021 officer report recommended that the planning committee approve the earlier two dwelling version of the scheme. I understand the appellant's frustration at feeling "overtaken by events", as one Council officer's correspondence put it. I am however required to consider the proposal with regard to the development plan as it now stands, and have found harm as set out above. The fact that the Council evidently came very close to granting planning permission in March 2021 does not carry significant weight in favour of the proposal today.
38. The proposed development attracted a substantial number of comments by interested parties at both planning application and appeal stage. To the extent that points raised are material, they have been addressed in my consideration of the main issues above. None of the other matters which have been raised either for or against the appeal scheme has had a significant bearing on my decision.

Conclusion

39. The proposal would conflict with the development plan taken as a whole. There are no material considerations, including those of the Framework, which indicate that the decision should be made other than in accordance with the development plan.
40. For the reasons given above, the appeal should therefore be dismissed.

M Cryan

Inspector

⁸ List entry number 1418334