



Appeal Decisions

Hearing held on 12 & 13 September 2023

Site visit made on 13 September 2023

by Beverley Wilders BA (Hons) PgDURP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th January 2024

Appeal A Ref: APP/P2935/W/23/3320677

Land to the East of The Manor House, A695, Riding Mill NE44 6HW

- 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 Ian Dickinson Trust against the decision of Northumberland County Council.
 - The application Ref 21/02077/FUL, dated 13 May 2021, was refused by notice dated 26 October 2022.
 - The development proposed is Construction of 13no Dwellings (including 2no affordable dwellings), creation of new access, car parking and soakaways (amended description).
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Appeal B Ref: APP/P2935/Y/23/3320679

The Manor House, A695, Riding Mill NE44 6HW

- 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 Ian Dickinson Trust against the decision of Northumberland County Council.
 - The application Ref 21/03915/LBC, dated 4 October 2021, was refused by notice dated 26 October 2022.
 - The works proposed are demolition of a section of existing curtilage listed boundary wall to create access for residential development.
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Decisions

Appeal A Ref: APP/P2935/W/23/3320677

1. The appeal is dismissed.

Appeal B Ref: APP/P2935/Y/23/3320679

2. The appeal is dismissed.

Preliminary Matters

1. The descriptions of development used in the headings above differ to those stated on the application forms. However, these amended descriptions were formally agreed by the appellant prior to the determination of the applications.
2. During the course of the appeal, after the Council had determined the applications, the appellant provided a number of additional plans and documents in order to address some of the Council's concerns. This includes a revised Landscape Masterplan¹ which was discussed with the parties at the hearing. Given the relatively minor nature of the changes proposed by the revised plan, I am satisfied that no parties would be prejudiced by my

¹ N1272-ONE-ZZ-XX-DR-L-0001 – Rev 01

acceptance of it. Similarly, the revision of the proposals to increase the number of affordable units from 2 to 4 and the submission of a plan² to reflect that, does not materially alter the proposal to the extent that it would be prejudicial to interested parties. In determining the appeal I have therefore had regard to this additional material and additional plans.

3. The decision notice relating to the full planning application includes five reasons for refusal. Reason for refusal 3 relates to affordable housing; reason for refusal 4 to ecology and biodiversity and reason for refusal 5 to planning obligations regarding affordable housing, open space and education. At the beginning of the hearing, the Council advised that it is now satisfied that the issue of affordable housing has been addressed by the submission of a S106 agreement and an additional plan and that it no longer wishes to defend reason for refusal 3 and the affordable housing element of reason for refusal 5. The Council also advised that it no longer wishes to defend reason for refusal 4 relating to ecology. I have determined the appeal accordingly.
4. At the time of the hearing, the Broomhaugh and Riding Neighbourhood Plan 2023 – 2036 (NP) had not been made but a referendum was due to take place on 5 October 2023. Following the hearing, the Council advised that the referendum was successful, and the NP was made on 16 November 2023. Consequently, it now forms part of the development plan for the area and carries full weight. I have therefore had regard to policies in the NP where relevant to the proposals.
5. Following the submission of the appeal, two revisions have been made to the National Planning Policy Framework (the Framework), one published on 5 September 2023 and a more recent one following the close of the hearing on 19 December 2023. The parties have had the opportunity to comment on the revisions made to the Framework and in determining the appeal, I have had regard to any comments received.
6. The submitted Statement of Common Ground states that there is disagreement between the parties as to whether the appeal site is brownfield or greenfield. However, at the hearing the parties agreed that this issue is not particularly relevant to the consideration of the appeals.

Main Issues

7. The main issues are:

For Appeals A & B

- Whether the northern boundary wall is a curtilage listed building;
- The effect of the proposals on designated heritage assets and in particular, whether the proposals would preserve The Manor House, a Grade II Listed Building, and any features of special architectural or historic interest it possesses.

For Appeal A

The effect of the proposal on:

- the character and appearance of the area;

² 1835-HSD SD-10.07

- the living conditions of the occupiers of The Riding having particular regard to outlook and noise and disturbance;
- open space and education provision.

Reasons

Whether the northern boundary wall is curtilage listed

8. The proposals include the demolition of a section of the northern boundary wall to create a vehicular access into the site to serve the proposed dwellings. A listed building consent application was made to carry out these works, following a request by the Council as it considers the wall to be curtilage listed. However, despite submitting an application, the appellants maintain that the wall is not listed.
9. At the hearing, the parties agreed that the relevant tests for determining whether or not the wall is listed are as set out in the Act³, in Historic England (HE) Advice Note 10 and in relevant case law. The parties also agreed that whether or not the wall is listed is a matter of judgement for the decision maker.
10. HE Advice Note 10 states 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: the physical layout of the Listed Building and the structure; their ownership, both historically and at the date of listing; and the use or function of the relevant buildings both historically and at the date of listing.
11. In this case, the wall in question forms part of a continuous wall that stretches eastwards from The Manor House (TMH). The walling nearest to TMH which falls outside of the appeal site is Listed. The affected wall is contiguous with this and forms part of the boundary enclosure of the land located to the east of the house and its surrounding gardens.
12. The appeal site is and has historically been in the same ownership as the house.
13. At the time of the site visit, the appeal site contained a number of modern structures including greenhouses, a former pig-sty and a tennis court together with evidence of fruit trees. Whilst I accept that the structures and fruit tree planting may be modern, it appears from the evidence and from the site visit that the appeal site is and has historically been used in connection with the residential occupation of the house, with evidence of it being used as a paddock, as a kitchen garden and for leisure purposes as evidenced by the presence of the tennis court.
14. In reaching my decision, I have had regard to the legal advice submitted by the appellant in relation to this matter⁴. In particular, I note that it advises that "it will be a difficult, though not insurmountable argument to win, that the wall is not curtilage listed." Noting the points made in the advice, the affected wall is a reasonably short distance away from the house and its garden. It is, as the parties agree, of some age comprising historic fabric and as stated above, there is and has historically been a physical and functional connection between the land enclosed by the wall and the house.

³ Planning (Listed Buildings and Conservation Area) Act 1990

⁴ Written Note from Counsel Paul Tucker KC 17th December 2021

15. I do not consider that the fact that the affected stretch of wall was not specifically referred to in the List Descriptions or that there is a change in material of the wall is decisive in this case. Both parties accept that the wall is of some age and pre-dates 1948. There is disagreement as to whether the wall is a "heated wall" and the evidence on this is uncertain. However, even if I were to take the view that it is not a heated wall, this does change my view about its status.
16. Taking the above matters into consideration, I conclude that as a matter of fact and degree, the affected wall is a structure within the curtilage of TMH and as such is a curtilage listed building.

Listed Building – Special Interest and Significance

17. Located in a prominent roadside position adjacent to the A695 in the village of Riding Mill, The Manor House (TMH) and some sections of adjacent walling are included on the Statutory List at Grade II⁵. TMH is described in the List Description as a complex and picturesque house, core probably C17, extended early C18 and again in early C19. Stone and brick, partly rendered; slate roofs. The List Description for the house also relates to a wall attached to the rear. A separate List Description relates to forecourt walls and piers, C1840 re-using C18 piers.
18. TMH is orientated so as to face away from the adjacent A695 and is set within extensive grounds comprising a yard, outbuildings and a formal garden area close to the house, with a more extensive and partly walled kitchen garden/paddock area to the east. The plan form, layout and design of the house and surrounding land is reflective of its early origins and historical development. The northern boundary of the curtilage of the house is marked by a continuous, primarily rubble stone faced high wall. The submitted evidence suggests that TMH is one of the earliest buildings in Riding Mill.
19. Insofar as is relevant to the appeal proposals, the significance and special interest of the building derives from its particular architectural composition, which is reflective of its development over time, its high historic and architectural interest in the context of Riding Mill and its relationship with surrounding land and structures within its curtilage. The stone faced wall that marks the northern boundary of the appeal site together with the setting of the house within formal gardens and a wider associated landscape, comprising a kitchen garden/paddock, contributes to this significance. Whilst TMH is to some extent screened from the kitchen garden/paddock area, this does not mean that this area does not form part of the setting of the house, though it does reduce to some extent the contribution that this area makes to the significance of TMH.

The Proposals

20. The proposals are to construct 13 dwellings and associated development on the land to the east of TMH. As part of the proposals, a new vehicular access to the site would be formed by demolishing part of the northern boundary wall.

⁵ List entry numbers 1154322 and 1045392

The effect of the proposals

21. The western boundary of the appeal site marks the boundary between the formal garden area surrounding the house and the less formal kitchen garden/paddock area to the east. A large number of mature trees and a tall yew hedge along and near to this boundary restricts intervisibility between the house and garden and the appeal site, though there are gaps allowing glimpsed views and pedestrian access between the two areas.
22. A number of trees within the appeal site are to be retained, including some on the western part of the site and I note that the new access and dwellings would be offset from the western boundary with a proposed landscaped area in the intervening space. The new vehicular access would be positioned towards the west of the appeal site, adjacent to the proposed landscaped area and on a part of the site near to the house and garden at TMH. It would involve the removal of a section of wall and the formation of a two-way access point and associated visibility splays comprising curved walls and piers. The removed material would be re-purposed to form the new entranceway.
23. The appellant accepts that there would be harm to the northern boundary wall resulting from the proposals and I concur with this assessment as they would inevitably result in some loss of historic fabric and the formation of a significant gap within what is currently a continuous stretch of robust boundary walling forming the boundary of the curtilage of TMH. The formation of a gap within this lengthy section of walling would diminish the significance of the wall. This harm would not be overcome by any amendments to the particular design of the entrance as offered by the appellant.
24. In addition to this direct impact on the curtilage listed wall, the proposals would result in the entire loss of the existing kitchen garden/paddock area to the east of the house and garden. 13 two-storey dwellings would be constructed on this land together with an associated access and road, residential gardens and landscaped areas. Although some attempt has been made to site the dwellings and associated development away from the house and garden and whilst existing and proposed landscaping minimises intervisibility, this does not adequately mitigate the harmful effect on the setting of TMH that would result from the proposals. The proposals would involve the largely undeveloped and open site, historically used in association with and ancillary to the residential occupation of TMH, being completely re-developed with the majority of the site being built upon.
25. The parties agree that the appeal site also falls within the setting of a number of other nearby Listed Buildings. However, having regard to the position of the appeal site relative to these buildings, the intervening landscape and the scale and design of the proposals, I consider that the setting of these buildings would not be harmed by the proposals.
26. Taking the above matters into consideration and mindful of the duties imposed by the Planning (Listed Buildings and Conservation Areas) Act 1990, I conclude that the significance of the special interest of The Manor House, a Grade II Listed Building would not be preserved.

Heritage Balance

27. The Framework anticipates that once a finding of harm to the significance of a heritage asset, such as a listed building, has been reached, then the magnitude of that harm should be assessed. In this case, I conclude that the proposals would cause less than substantial harm to the significance of the Grade II Listed The Manor House. Nevertheless, at paragraph 205 the Framework sets out that great weight should be given to a heritage asset's conservation irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Moreover, at paragraph 208 the Framework states that the harm should be weighed against the public benefits of a proposal. Such benefits could include circumstances where a proposal would secure the optimal viable use of a building.
28. A number of public benefits of the proposals have been referred to by the appellant. Firstly, the proposals would provide 13 new dwellings, 4 of which would be affordable housing secured by a S106 agreement. Having regard to the number of dwellings proposed, the village location of the site, the evidence of need for affordable housing in the village and the Council's current housing land supply position, I attach moderate weight to this public benefit. The proposals would also provide economic benefits both during the construction phase and through increased expenditure. Given the scale of the proposed development, I attach moderate weight to these public benefits.
29. The appellant also points towards significant investment in the Listed Building linked with proposed works to TMH and the northern wall as set out within a submitted Unilateral Undertaking (UU). However, whilst I note that the submitted reports show that some works of repair are required to TMH and the northern wall, I am not aware that either structure is on the At Risk Register and all of the proposed works to TMH and the wall could be carried out independently of the proposals. I have not seen any financial evidence to suggest that these works are wholly dependent on the proposals and some of the works require consent in their own right, so there is no guarantee that they would be secured. Having regard to this, whilst improvements to these listed structures would be a public benefit, I attach limited weight to it. Moreover, it has not been demonstrated that the proposals would be necessary to secure a continued use of TMH consistent with its conservation. It has not therefore been established that the proposals would be necessary to secure the optimum viable use of the building.
30. There is agreement between the parties that the proposals would result in biodiversity net loss at the appeal site. However, off-site habitat creation is proposed and would be secured as part of a submitted S106 agreement. This would result in biodiversity net gain of over 10% and more than that required by policy. I attach moderate weight to this public benefit.
31. Education and open space contributions are proposed to be secured by the submitted S106 agreement. As these contributions are required to mitigate the effects of the proposals, I attach very limited weight to them as a public benefit.
32. For the reasons given above, the proposals would not result in the optimum viable use of the building. Moreover, the public benefits of the proposals would be moderate and would not be of sufficient weight to justify the proposals

when set against the great weight and importance I attach to the harm which would be caused to the significance of the heritage asset. Whilst I note the difficulties in identifying a suitable location for a new access to the site in order to meet highway safety requirements for the proposals, I do not consider that this is a clear and convincing justification for the harm to the significance of the heritage asset.

33. My attention has been drawn by the appellant to a recent consent for a new access through a listed wall at Riding Farm (Ref 22/01724/LBC). However, I have limited information regarding this proposal and in any event, I must determine the appeals on their own merits and on the basis of the evidence before me.
34. The proposals therefore conflict with the Framework insofar as, amongst other things, it requires heritage assets to be conserved in a manner appropriate to their significance. For the same reasons, there is conflict with policies STP 3, QOP 1, ENV 1 and ENV 7 of the Northumberland Local Plan 2016 – 2036 adopted March 2022 (LP). These policies, amongst other things, seek to conserve heritage assets.

Character and Appearance

35. As stated, the appeal site comprises a piece of largely undeveloped land located adjacent to the A695, the main road through Riding Mill. The northern boundary of the site is marked by a tall, continuous stone wall for the entire length of the road frontage. The wall is positioned close to the road edge. It forms a prominent feature in this part of Riding Mill. There is some landscaping along and behind the wall, including a number of mature Lime Trees. The Lime trees are identified in the submitted Arboricultural Impact Assessment⁶ as Category A trees, that is trees of high quality with an estimated remaining life expectancy of at least 40 years. Both the boundary wall and the existing landscaping, including the Lime Trees make a significant positive contribution to the character and appearance of the area.
36. The immediate surrounding area to the north of the site largely comprises traditional stone buildings under slate roofs, a number of which are Listed Buildings. These face towards the road with many of them being positioned close to it. To the south of the site is Sandy Bank, a residential street containing dwellings of a variety of style, design and materials, generally set in spacious grounds. There are some examples of modern, cul-de-sac developments nearby, but these are some distance away and do not form the immediate context of the appeal site.
37. The Council describes the settlement of Riding Mill as being a non-designated heritage asset, though it does not appear on a local list.
38. The proposals would result in the partial demolition of the northern boundary wall, the formation of a new two-way vehicular access and the loss of a number of existing trees, including 4 Category A mature Lime trees along the northern site boundary. This would significantly change the character and appearance of this part of Riding Mill and would result in changes to and the loss of features that make a significant positive contribution and this would therefore be harmful to the area. The newly formed gap in the wall and the loss of mature

⁶ All About Trees Arboricultural Impact Assessment dated 13 May 2021.

trees would open up views into the appeal site that do not exist at present. This would mean that some parts of the proposed development would be visible from beyond the site boundaries, though I acknowledge that some of these would be from passing vehicles and that there is not a pavement on the southern side of the road. The loss of these mature trees would not be adequately mitigated for by the proposed replacement planting and whilst I acknowledge the difficulties in providing a suitable access to the site, this does not justify the proposed loss of trees.

39. The proposed dwellings would face inwards onto the access road, with their rear elevations facing towards the northern and southern site boundaries. Though the position of the dwellings would broadly be in alignment with existing dwellings to the north and south, this layout would be inconsistent with the pattern of development nearby which primarily consists of linear, road fronting dwellings. Nevertheless, the presence of the high, northern boundary wall and retained and proposed landscaping, means that notwithstanding the change in levels across the site, this layout would be unlikely to be obvious from beyond the site boundary. However, the number of and particular scale and density of the proposed dwellings means that the scale of the proposals would be evident as would some of the materials and design features. Given the particular design and layout of the dwellings, I do not consider it would appear as an agricultural farm steading typology as suggested by the appellant.
40. The proposals would lead to the urbanisation of this largely undeveloped piece of land and would introduce brick and pantiles to the northern part of the site. This would be at odds with and would be incongruous in relation to surrounding development which largely comprises natural stone and slate. At the hearing the appellant stated that they would be willing to accept conditions controlling materials and design features should I consider this necessary. However, whilst this would serve to overcome issues in relation to the design of the dwellings, it would not address issues of scale, layout and loss of trees.
41. Taking the above matters into consideration and irrespective of whether Riding Mill is or is not a non-designated heritage asset, the proposals would result in harm to the character and appearance of the area. They are therefore contrary to policies STP 3, HOU 9, QOP 1, QOP 2, QOP 4 and ENV 1 of the LP and relevant paragraphs of the Framework. These policies require, amongst other things, development to be of good design, to conserve the character of the built environment and to ensure that existing features that contribute towards the character and appearance of the area are retained wherever possible.

Living Conditions

42. At the hearing the Council confirmed that its concerns regarding living conditions relate to the effect of the proposals on the occupiers of The Riding on the opposite side of the A695 having particular regard to outlook and noise and disturbance.
43. The proposed new vehicular access to the appeal site would be on the opposite side of the road to The Riding, a two storey, double fronted detached dwelling. The front elevation of The Riding is positioned close to the back edge of the pavement, behind a modest sized front garden area and the floor level of the house is slightly below the road level. There are 5 windows in the front

elevation of the house facing towards the appeal site and the existing outlook is of the road, the northern boundary wall and existing landscaping along and beyond the wall within the appeal site. At the time of my visit I noted that the A695 is reasonably narrow near to The Riding and the site of the proposed new entrance and that there is a pavement to one side of the road, on the same side as The Riding and nearby properties.

44. As previously stated, the A695 is the main road through the village and at the time of both of my visits to the area, it was reasonably busy. Local residents reported experiencing significant noise from traffic travelling along the road. The position of the access, almost directly opposite The Riding and the narrowness of the road means that occupiers of The Riding would be affected by vehicles entering and exiting the site. The most affected room is likely to be the ground floor lounge positioned on the western side of the house. This lounge has 2 windows, one in the front elevation and one in the side elevation, unaffected by the proposals.
45. Vehicles travelling from the west and turning right into the site, may need to wait on the road outside The Riding until there is a gap in oncoming traffic and vehicles turning right out of the site would be turning and accelerating past The Riding. In winter months, the movement of vehicles out of the site is also likely to result in headlights shining into ground floor windows opposite. Whilst I note the busy nature of the road and the fact that occupiers of The Riding already experience noise and disturbance from it, the nature of the noise and disturbance which would result from the new access opposite the dwelling would be different to that from passing traffic and would likely be noticeable to the occupiers.
46. The appellant points to the findings of the submitted Transport Statement⁷ that there would be 8 traffic movements at the access in the a.m. peak and 9 in the p.m. peak. This evidence has not been disputed by the Council, though it does appear to relate to the initial proposal for 12 dwellings rather than the 13 now proposed so the numbers may be slightly higher than the figures quoted. Nevertheless, even acknowledging these figures, the fact that there is likely to be a future increase in the use of electric vehicles and that car lights will only be used at certain times during the day/year, given the relative position of the proposed new access and The Riding, the proposals would be likely to result in a materially harmful increase in the level of noise and disturbance experienced by the occupiers of that property. This is notwithstanding the presence of an additional window in the western lounge.
47. In reaching this finding, I note that no objections were raised to the proposals by the Council's Environmental Protection Team and that a Noise Assessment⁸ was submitted with the application, though it appears that this focused on noise relating to the proposed dwellings and did not consider the effect of the proposals on The Riding.
48. With regard to outlook, whilst this would clearly change, the proposals would not have an overbearing effect on the occupiers of The Riding noting the height and design of the proposed entrance and the position of the proposed dwellings within the appeal site.

⁷ SAJ Transport Consultants Ltd dated May 2021

⁸ LA Environmental Consultants Assessment of Noise Levels and Noise Amelioration Measures dated 17 May 2021

49. Taking the above matters into consideration, the proposals would not adversely affect the outlook from The Riding, but the use of the proposed access would result in an unacceptable increase in noise and disturbance to the occupiers of The Riding and this would have an unacceptable adverse effect on their living conditions. The proposals are therefore contrary to Policy QOP 2 of the LP and relevant paragraphs of the Framework. These policies state, amongst other things, that development will be required to not cause unacceptable harm to those living in the local area.

Open Space and Education Provision

50. At the time of determining the application, the Council was not satisfied that the planning application had secured financial contributions towards education and open space provision in accordance with LP policies INF 1, INF 5 and INF 6 and Appendix H1 and H2. These policies and this guidance require the provision of necessary infrastructure and planning obligations where this cannot be achieved through conditions, as is the case here.
51. However, a completed S106 agreement has now been submitted which makes provision for financial contributions towards education and open space provision to mitigate the effects of the proposals. Whilst I have been made aware of an issue with the S106 with regard to the education contributions, this issue could have been addressed were I allowing the appeals.

Other Matters

52. In reaching my decision, I note that a number of other concerns were raised in relation to the proposals, both in writing and during the hearing. However, as I am dismissing the appeals based on my findings in relation to the main issues, there is no need for me to address these other matters as it would not affect the outcome of the appeals.
53. I note that the submission of the applications followed pre-application discussions with the Council and that amendments have been made to the proposals in order to try to address the Council's concerns. However, notwithstanding that, I find the proposals to be harmful for the reasons stated above.
54. I have addressed the purported benefits of the proposals in the heritage balance above, and I also note that the proposals would provide new housing in an accessible location and that Riding Mill is inset within the Green Belt meaning that opportunities for housing elsewhere may be limited. I also note the appellant's suggestion that the proposals involve utilising brownfield land and that this should be given substantial weight. However, even if I were to accept this, neither this nor the other benefits of the proposals outweigh the harm I have identified.
55. I also note that the site was previously identified as a potential housing allocation during the Neighbourhood Planning process but that it was reluctantly removed from the NP following advice from the Council that a strategic environmental assessment would be required. Moreover, I note the comments made within the NP regarding housing need in the local area both in terms of number and type. Nevertheless, the site is not allocated in the NP, and for the reasons stated above, any benefits of the provision of housing on the site would not outweigh the harm identified.

Conclusion

56. For the above reasons and having regard to all matters raised, I conclude that the appeals should be dismissed.

Beverley Wilders

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Sean Hedley – Hedley Planning Services

Alex Franklin - Hedley Planning Services

Sarah Dyer – Sarah Dyer Heritage Ltd

Adrian Clarke – Landscape Consultant

Luke Dickinson – Trustee Ian Dickinson Trust

FOR THE LOCAL PLANNING AUTHORITY:

Neil Armstrong – Principal Planning Officer

Kate Blyth – Planning Area Manager

Sharon Kelly – Building Conservation Officer

Andrea King – Planning Policy

INTERESTED PARTIES:

Diana Claire Robson – Local Resident

Adrian Banger – Local Resident

Sean Hamilton – Local Resident

HEARING DOCUMENTS

H1 –Incomplete S106 Agreement

H2 – Correspondence between the Council and the Appellant regarding the description of development

H3 – Drawing showing the location of listed buildings near to the appeal site

H4 – Correspondence regarding Biodiversity Net Gain

H5 – Extract from National Planning Policy Guidance regarding Neighbourhood Plans

H6 – Revised Tree Protection Plans (AMS TPP Rev A and AIA TPP Rev A)