



Appeal Decision

Hearing held on 23 April 2024

Site visit made on 24 April 2024

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 7 May 2024

Appeal Ref: APP/T2405/W/23/3332756

Land off Roundhill, Kirby Muxloe, Leicester LE9 2DY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr Lewis of Leicester Lettings (2016) Limited against the decision of Blaby District Council.
 - The application Ref is 23/0189/OUT.
 - The development proposed is up to 9 serviced plots for self-build and custom housebuilding.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was made in outline with all matters except access reserved for future consideration. A reasonably detailed layout plan has however been submitted, which the appellant indicates should be treated as a parameters plan. Scope for variation of design and landscaping within each plot would be additionally limited by the site Design Code/Plot Passport. I have therefore taken the parameters plan and the Design Code/Plot Passport into account in my assessment of the scheme.

Main Issues

3. The main issues are:
 - whether the site is an appropriate location for the proposed development having regard to its effects on designated heritage assets; and
 - the effect of the development on the living conditions of occupants of 5 and 6 Roundhill in relation to noise and disturbance.

Reasons

Location

4. The site comprises part of the curtilage of No 6, and a large grass covered field to its rear. Though the latter is now in ancillary residential use, it retains the essential characteristics of an agricultural field. Other fields are located to the north and west, whilst residential development lies to the south and east.
5. Policy CS1 of the Blaby District Core Strategy 2013 (the CS) sets out the Council's spatial strategy, which seeks to focus development on sites within

and adjoining the Principal Urban Area of Leicester (PUA). Insofar as the site both falls within and directly adjoins the PUA, the proposed location accords with the strategy.

6. Notwithstanding the provisions of Policy CS1, the field also falls within a designated green wedge, an extensive area whose open and undeveloped character Policy CS16 of the CS seeks to retain. Amongst other things, the green wedge partly serves to support the strategic objective of preserving and enhancing the cultural heritage of the district. This is otherwise a more specific subject of Policies CS20 of the CS and DM12 of the Blaby District Local Plan Delivery DPD (the DPD). In this regard, the Council's concerns over the locational appropriateness of the development relate to its effects on heritage assets.

Heritage assets

7. The field is located a reasonably short distance to the south east of Kirby Muxloe Castle, which, as both a Grade I listed building, and Scheduled Ancient Monument (SAM), is a designated heritage asset of the highest significance. No 6 also falls within, and the rest of the site adjoins Kirby Fields Conservation Area (the Conservation Area). Within this context the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) sets out the desirability of preserving the setting of listed buildings, and of preserving or enhancing the character or appearance of conservation areas. Though no similar statutory provisions exist in respect of the settings of SAMs and conservation areas, each requires consideration with reference to heritage policy set out within the National Planning Policy Framework (the Framework). This makes clear that great weight should be given to the conservation of designated heritage assets.

(a) Kirby Muxloe Castle

8. Insofar as it is relevant to this appeal, the significance, special interest and national importance of Kirby Muxloe Castle resides in its spectacular but unfinished design, C15th construction, and rarity as a quadrangular brick castle. This replaced a C14th moated manor house on the same site, whose remains also survive. The most visually prominent components of the castle are the west tower and gatehouse.
9. Construction of the castle commenced in 1480 following a grant of licences to crenellate and to impark to its owner in 1474. Establishment of the park and construction of the castle were clearly related operations, even if they were not undertaken simultaneously. Indeed, if completed these would have seen a significant aggrandisement of both the former manorial site and its setting. Though construction of the castle was abandoned in 1483, imparkment is known to have occurred, and the park itself is thought to have endured until the mid C17th.
10. At a maximum of 2000 acres the park was large. It is presumed to have incorporated land within the immediate setting of the castle, including currently open land to the south and east, and land which has since been developed, including Kirby Fields. The historic character and composition of the park are unclear, but given its late date and function as an 'amenity park', this could well have been mixed, and not directly comparable with either earlier or later parks. The extent to which the current landscape directly corresponds to that which existed historically is therefore uncertain, and it is known that later

changes took place, including field enclosure. Insofar as the physical and visual setting of the castle remains undeveloped, and in this sense 'open', a tangible link can nonetheless be drawn to the past, providing some sense of the intended historic position of the castle within the landscape. In this way the surviving open landscape setting both contributes to the significance of the castle and plays a positive role in enabling its appreciation.

11. The setting of the castle has seen heavy encroachment by housing and roads, and surviving open land is now largely confined to a narrow corridor which stretches towards the southeast of the castle. This is accessible along much of its length by a public footpath, and it includes the field which forms part of the appeal site.
12. The field occupies an elevated position, placing it near to the horizon in views towards it from publicly accessible parts of the castle. The quality of these views is variable given both the presence of trees just outside the castle's moat, and the enclosure of the field itself by an overgrown hedge. Given that intervisibility would be increased by ordinary management of this vegetation, I place limited weight on its presence. Clearer views would otherwise exist during the winter, and a less obstructed view would exist from the upper portion of the west tower were this accessible. The tower is itself visible from within the site through gaps in the boundary hedge. Views from the castle confirm the role that the field plays in forming a component of its undeveloped landscape setting. Within this context the openness of the site is further underlined by visibility of Holmewood, the large dwelling which stands on the plot to the east.
13. The west tower helps to fix the location of the castle within the landscape, and this is appreciable moving northwest along the public footpath through the corridor of land to the southeast. The path in turn skirts the north boundary of the field, from which clear views through the hedge again confirm its undeveloped and open character. This is not diminished in any significant way by the presence of play equipment. Up until this point the approach to the castle through the landscape is compromised by residential development immediately to the south. Its absence from the site, and resulting increase in openness, provides an abrupt and strongly perceptible sense of relief and transition. As this enhances perception of the castle's position within, and relationship to its immediate landscape setting, it makes an important contribution to the way in which the significance of the castle is experienced.
14. The development would see the site covered by housing. Its suburbanisation and the consequent loss of openness would be obvious from the path, even if the boundary planting was thickened. The development would also be visible from the castle. In each regard the presence of built form would be accentuated by elevated ground levels within the field, and its position close to the horizon in views from the castle. Again, visibility would be likely to increase in winter, and if intervening vegetation was removed or trimmed. It is also likely that the development would be prominent in views from the upper portion of the west tower. The development as such would result in a further harmful erosion of the open landscape setting of the castle, and diminution of both the positive contribution that this makes to the significance of the castle, and role that it plays in appreciation of that significance. The development would therefore fail to preserve the setting of the listed building, and fail to conserve the setting of the SAM.

(b) The Conservation Area

15. The Conservation Area is designated to cover Kirby Fields, a residential estate originally laid out in the 1870s, and then incrementally developed. Insofar as it is relevant to this appeal, its significance resides in the distinctive layout and landscaping of the estate, and its collection of large houses on spacious plots, principally dating between the late C19th and 1920s. Notwithstanding later infilling, and the addition of cul-de-sacs around the peripheries, the historic identity of the estate remains strongly apparent, particularly within the northern and western parts of the Conservation Area.
16. No 6 is located in the northern part of the Conservation Area. It occupies land which fell outside the original layout of the estate, but was later incorporated into the grounds of the hospital opened at The Cliffe, which has since been renamed Roundhill Manor. The latter, together with Elmstead opposite, belong to the late C19th phase of the estate's development. These historic dwellings together flank the lower section of Roundhill, whilst the rest is made up of a cul-de-sac of late C20th dwellings. The sizing, design and spacious layout of these dwellings seeks to modestly evoke the character of earlier development. Given the relative sensitivity of design, C20th components of Roundhill make a neutral contribution to the significance of the broader Conservation Area.
17. The field which makes up the bulk of the site falls just outside the Conservation Area, and thus within its immediate physical and visual setting. Though land to the south did not form an original component of the estate, that to the east did. This is occupied by Holmewood, whose original parts again date to the late C19th. Together with its contemporaries Roundhill Manor and Elmstead, Holmewood is a non-designated heritage asset, whose significance principally derives from the positive contribution that its age, design and architectural character make to the character, appearance, and significance of the Conservation Area.
18. As is emphasised by its visibility from the castle, Holmewood is prominently located, and its orientation and positioning exploited the potential for long ranging views within an open setting. The site forms a key component of this setting and provides part of the open outlook from the front elevation. The site therefore contributes both to the significance of Holmewood, and the ability to appreciate that significance. This in turn helps to underpin the positive contribution that Holmewood makes to the significance of the Conservation Area.
19. Though the development would effectively entail elongating Roundhill, the proposed enclosed narrow access formed through the curtilage of No 6 would be entirely at odds with the established character of the street layout. The arrangement would also undermine the established plot layout given that it would significantly reduce the size and spaciousness of that upon which No 6 stands. The awkwardness of the resulting relationship between the access and No 6 would be accentuated by the close proximity of the access to the side of the dwelling. The proposed dwellings would themselves form a distinctly detached enclave lacking any real sense of direct integration with Roundhill.
20. The incompatibility of the access with the existing street and plot layout would undermine the established character, quality, and sensitive design of Roundhill, as too therefore the way in which this is experienced in relation to the broader Conservation Area. This would be highlighted upon each and every trip into and

out of the development past Roundhill Manor, Elmstead, and the wider estate. The failure of the development as a whole to integrate with its developed setting would also be clearly apparent.

21. The development would additionally encroach upon the open setting of and outlook from Holmewood and compromise its distinctiveness by eroding its prominence. This would be appreciable in views from the castle and the adjacent footpath. The consequent loss of significance and reduction in the ability to appreciate that significance would arise within the context of the Conservation Area as a whole.
22. The historic development of Kirby Fields involved what could today be considered a series of custom/self-build projects. In this way the proposed development would be rooted in the historic evolution of the broader area. But whilst this is an attractive notion, it would make no difference to the scheme's failure to otherwise integrate.
23. I find that the development would fail to sensitivity integrate with the established street and plot layout within Roundhill, giving rise to broader harm to the character, appearance, and significance of the Conservation Area. It would additionally entail an insensitive extension of development into the setting of the Conservation Area, harming the contribution made to the Conservation Area's significance by Holmewood. The development would therefore both fail to preserve or enhance the character or appearance of the Conservation Area, and fail to conserve its setting.

(c) Balance and conclusion

24. I have found that the development would fail to preserve the setting of the listed building, fail to conserve the setting of the SAM, and fail to conserve the setting of the Conservation Area; the latter, as illustrated in relation to Holmewood. I have also found that the development would fail to preserve or enhance the character or appearance of the Conservation Area. In each case the adverse effects on significance and the ability to appreciate that significance would be at least moderate in terms of severity, and the harm caused less than substantial. This harm attracts considerable importance and weight insofar as it relates to the scheme's failure to preserve the setting of the listed building, and to conserve or enhance the character or appearance of the Conservation Area. It attracts great weight insofar as it relates to the scheme's failure to conserve the setting of the SAM and the Conservation Area. In accordance with paragraph 208 of the Framework it is necessary to weigh this harm against the public benefits of the scheme.
25. The principal considerations advanced in favour of the appeal scheme are the social and economic benefits of housing provision within a location providing good access to services and facilities. In this regard the Council's demonstrable supply of deliverable housing sites stands at 3.69 years, indicating a sizable shortfall against its 5-year requirement. There is additionally an outstanding cumulative district-wide demand for 75 self/custom-build plots.
26. On the assumption that the development proved deliverable, the appeal scheme's provision of 9 serviced plots for self-build housing would provide a minor boost to supply. In so doing it would also make a small but valuable contribution towards both reducing the above shortfall and meeting the demand for serviced self-build housing plots within the district. In relation to

the latter, allowing the appeal would also represent a small step towards fulfilment of the duty to grant enough development permissions to satisfy the above demand by the applicable deadline in October. That duty would of course remain to be fulfilled by subsequent grants of development permission. In that regard, whatever my decision, it appears unlikely that sufficient development permissions will have been granted by that time.

27. Insofar as the harm I have identified above is locationally specific, locational expressions of interest recorded in the Council's custom/self-build register could have arisen from anyone inside or outside the district, and multiple locations can be selected. That being so, demand for self-build plots could be equally well served by granting development permissions in locations elsewhere in the district. The same could also be said of the greater demand for plots suggested in secondary data presented by the appellant.
28. Whilst the appeal scheme's provision of housing is a consideration which attracts significant weight, the scale of the related social and economic benefits would be at best minor. It is furthermore likely that similar benefits could be delivered by development located elsewhere within the district. I have taken account of the fact that few other proposals for self-build housing have come forward within the district to date. Whilst this is reflected in the weight that I have attached to the related public benefits, it does not alter the minor scale of those benefits.
29. In view of the above, I find that the public benefits of the development would be outweighed by the harm that it would cause to the significance of heritage assets. This indicates that the appeal scheme's overall effect on heritage assets would be unacceptable.
30. A number of appeal decisions have been referenced by the appellant which are held to demonstrate the importance of proposals for serviced plots for self-build housing, and the weight that should be attached to their provision. These decisions cannot be considered fully representative, and site-specific considerations are ultimately critical in the current case. As such, the selected findings of other Inspectors in other locations, including in relation to other heritage assets, are not directly transferable. Thus, whilst I acknowledge these decisions, they do not alter my view.
31. For the reasons set out above I conclude that the site would be an inappropriate location for the proposed development given its unacceptable effects on heritage assets. It would therefore conflict with Policy CS20 of the CS which sets out the expectation for new development to make a positive contribution to the character and distinctiveness of the local area, and the need to ensure the protection and enhancement of heritage assets and their settings; Policy DM12 of the DPD, which similarly provides support for proposals that would conserve or enhance the historic environment; Policy DM1 of the DPD to the extent that modifications to No 6 would not be in keeping with the character and appearance of the area; Policy CS16 of the CS as set out above; and Policy DM10 of the DPD insofar as the proposed self-build housing would not occupy a suitable location.

Living conditions

32. Traffic using the M1 is a prominent feature of the existing noise environment within Roundhill, and this becomes more audible moving north through the

- site. Nos 5 and 6 otherwise occupy a little disturbed location at the top end of a cul-de-sac. As set out above, the proposed access would cut through the curtilage of No 6, resulting in vehicular movements between the two dwellings. This would expose both front and back garden spaces to a new source of noise.
33. The appellant has commissioned a noise report which has set out mitigation measures. The Council accepts that these measures would successfully mitigate noise impacts. Though not all these measures have been shown on the parameters plan, they could be secured by condition.
34. The Council's objection to the measures and identification of harm to living conditions is more specifically related to the effect that enclosure of the access would have on the character and appearance of the Conservation Area. That is however a separate matter, as considered above.
35. For the reasons outlined above I conclude that the development would not cause unacceptable harm to the living conditions of occupants of Nos 5 and 6 in relation to noise and disturbance. It would therefore comply with Policy DM1 of the DPD to the extent that this requires development to have a satisfactory relationship with nearby uses which is not detrimental to the amenities of existing or new occupants. An overall conflict with Policy DM1 would however remain given my findings in relation to heritage above. Whilst the Council also cited Policy DM10 in relation to this matter, its terms, as previously referenced above, do not appear to be directly relevant.

Other Matters

36. Green wedges serve a broad range of functions, and the extent to which the site does or does contribute to each is disputed between the parties. The appellant also argues that Policy CS16 of the CS is unreasonably restrictive and that some development within green wedges is necessary to accommodate required housing. Whether or not that is more broadly the case, there is no necessity for the site in question to be developed. These matters otherwise have little direct bearing on the harm that I have identified in relation to heritage assets above, or its overall acceptability. Insofar as provisions set out within Policy CS16 of the CS for future review of the green wedge have also been brought to my attention, these are irrelevant to my assessment. The review itself took place some time ago.

Conclusion

37. For the reasons set out above the effects of the development in relation to heritage assets would be unacceptable, giving rise to conflict with the development plan taken as a whole. There are no other considerations which alter or outweigh these findings. I therefore conclude that the appeal should be dismissed.

Benjamin Webb

INSPECTOR

APPEARANCES

For the Appellant

Chris May	(Legal) Freeths
Andy Moger	(Planning/Self-build) Tetlow King Planning
Gail Stoten	(Heritage) Pegasus Group
Christopher Young KC	(Counsel for the appellant) No.5 Chambers

For the Local Planning Authority

Lloyd Bird	Principal Planning and Conservation Officer
Ian Davies	Development Services Team Leader
Kevin Exley	Principal Planning Policy Officer
Charlene Hurd	Senior Planning Officer

Interested parties

Gill Baron	Local resident
Nigel Ozier	(Representing local residents) Aitchison Raffety

Documents presented at the Hearing

Officer report relating to planning application 23/0845/OUT