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# Appeal Decision

Site visit made on 16 April 2024

**by E Dade BA (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 17 May 2024**

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**Appeal Ref: APP/E2530/W/23/3330287**

**Dove House, Barkston Road, Marston NG32 2HN**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mr J Thorold against the decision of South Kesteven District Council.
  - The application Ref is S23/0118.
  - The development proposed is erection of a dwelling (re-submission of withdrawn application ref: S21/2165).
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## Decision

1. The appeal is dismissed.

## Applications for costs

2. An application for costs was made by Mr J Thorold against the decision of South Kesteven District Council. This application is the subject of a separate decision.

## Preliminary Matters

3. As the proposal relates to a registered park and garden, I have had regard to the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).

## Main Issues

4. The main issues in this appeal are the effect of the proposed development on:
  - the setting of the grade II registered park and garden at Marston Hall; and
  - the living conditions of the occupants of White Gates, with particular regard to sunlight and daylight.

## Reasons

### *Setting of registered park and garden*

5. The appeal site is located on the western side of Barkston Road between dwellings Dove House and White Gates. The site is a grassed area, with three apple trees and a hedge along the front boundary and is an area of garden land associated with Dove House which historically formed part of a wider orchard.
6. Dove House is a two-storey dwelling, characterised by its terracotta pantile roof and wooden casement windows. Adjacent dwelling, White Gates, is of two-storey height with a rendered exterior and terracotta pantile roof. The Heritage Impact Assessment (HIA) indicates the two neighbouring properties of Dove House and White Gates have been in-situ since at least 1889, and there is

- visual and architectural continuity between both dwellings in terms of their overall height, scale, architectural features, and similar massing by way of their matching roof eaves and ridge height, and casement windows.
7. To the rear of the site is a former outbuilding, which has recently been converted to a dwelling with a salon. The site is therefore enclosed by residential development on three sides. Beyond White Gates, to the south of the appeal site, are further period properties. A modern chalet bungalow, Farfield House, is set back from the street behind White Gates and therefore whilst visible from the site is not prominent within the street scene.
  8. The public highway has been modernised with a pedestrian footway and signage. However, modern development is generally distant from the site, with mid-20<sup>th</sup> century bungalows and semi-detached dwellings clustered around the junctions with Hougham Mill Lane and Pinfold Lane. The area is therefore generally characterised by the prevalence of period properties.
  9. The HIA indicates that, historically, views of the site from Barkston Road would be as a patch of garden ground between two residential properties. The site therefore provides a long-standing gap in the street scene which forms a break in development and contributes to the area's green and spacious character.
  10. From the appeal site are views beyond Barkston Road to open countryside, including paddock land associated with Marston Hall. Barkston Road therefore forms a defined edge to the settlement. The area therefore comprises a street of older dwellings, with a spacious and organic layout of buildings in an edge of settlement location with views across open countryside, contributing a rural, verdant character.
  11. From the site there are views of the south-eastern most corner of Marston Hall, a 16<sup>th</sup>-century building, and its registered park and garden. The garden comprises three areas, including a gravelled entrance with gate piers to the north, an open lawn with ornamental trees and shrubs, including a 400-year-old wych elm and formal rose garden enclosed by walls and yew hedges, and a kitchen garden. The garden includes paths, herbaceous borders, and an 18<sup>th</sup>-century gazebo with a gothic façade and murals. The significance of the garden is derived from its design and the age of its built and natural features which possess visual and special historic interest. The sporadic arrangement of period properties along Barkston Road contributes positively to the rural character of the setting of the registered park and garden.
  12. The proposed dwelling would comprise a detached, four-bedroom dwelling with a traditional cottage architectural style. The development would infill the gap between Dove House and White Gates, and its siting would appear very close to White Gates. The siting and density of the proposed development would be out of keeping with the spacious arrangement of development in the area.
  13. The design of the proposal has sought to match the roof heights and boundary treatments of neighbouring properties and complement their appearance through choice of materials including reclaimed red brick and heritage pan tiles. However, the design and suggested landscaping proposals would fail to mitigate the effects of the development on the street scene, which would have a suburbanising effect to the detriment of the rural character of the area.

14. The HIA concludes the arrangement would not lead to harm to heritage assets. However, as the statutory consultee for proposals affecting registered parks and gardens, I attach significant weight to the advice provided by The Gardens Trust. The Gardens Trust's comments accurately reference surrounding features, and I am satisfied their advice reflects its professional judgement.
15. As set out above, the siting of the proposal would result in the intensification of development which would appear out of keeping with the layout and density of the area and would result in a loss of an important gap which contributes to the area's open, spacious, and verdant character. The proposal would therefore harm the rural character of the registered park and garden's setting. Given the above, I find that the proposal would fail to preserve the special interest of the registered park and garden.
16. Paragraph 205 of the National Planning Policy Framework (the Framework) advises that when considering the impact of development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 206 goes on to advise that significance can be harmed or lost through development within an asset's setting and that this should have a clear and convincing justification. Given the above, I find the harm to be less than substantial, but nevertheless of considerable importance and weight. Under such circumstances, paragraph 208 of the Framework advises that this harm should be weighed against the public benefits of the proposal.
17. The appellant is of the opinion that the proposal would be beneficial because it would contribute an additional market dwelling in an accessible location, enabling occupants to support the vitality of community facilities such as the pub, church and school, and would lead to short term construction jobs with an associated boost to the local economy. The proposal also seeks to secure achieve an on-site increase in biodiversity.
18. In addition, the appellant has provided a Tree Management Plan which outlines how the registered park and garden's trees will be managed to ensure their long-term health and retention, with a programme of maintenance and planting secured by a Unilateral Undertaking. Since the Tree Management Plan relates to trees and land within the registered park and garden, it is unclear how the proposal would ameliorate the effects of the development on the asset's setting. Therefore, I am not satisfied the obligation is directly related to the development. On this basis, the obligation would not comply with paragraph 57 of the Framework, and I cannot attribute weight to its public benefits.
19. Even taking into account the Framework's emphasis for development of windfall sites, the benefits associated with the proposal would be commensurate in scale to the development of one dwelling and would therefore be small. Conversely, the registered park and garden is of significant status, given its Grade II listing. The public benefits associated with the proposal would be insufficient to outweigh the harm to the asset's setting.
20. I therefore conclude that, on balance, the proposal would fail to preserve the special setting of the Grade II listed registered park and garden. This would fail to satisfy the requirements of the Act and paragraph 205 of the Framework. The proposal would therefore conflict with Policy EN6 of the South Kesteven Local Plan 2020 (LP) which seeks to protect and enhance heritage assets and their settings unless public benefits outweigh the potential harm.

### *Living conditions*

21. The side elevation of White Gates abuts the appeal site boundary. The Rutland and South Kesteven Design Guidelines Supplementary Planning Document 2021 (SPD) includes a 25-degree rule for assessing the impact of a development on the light and outlook of a neighbouring property. The proposed dwelling would have an L-shaped floor plan and a detached garage at the rear and would be positioned adjacent to the side elevation of White Gates. Through its form and siting, the proposed dwelling would breach the 25-degree rule.
22. The side elevation of White Gates contains windows serving the bathroom, stairwell, garden room, and kitchen, and therefore includes habitable rooms. Whilst the kitchen is understood to have a dual aspect, for other rooms the windows provide the only source of natural light.
23. The flank wall of the proposed dwelling would be a two-storey, solid brick, gable end. Through its siting close to White Gates, the proposed dwelling would obstruct natural light from reaching windows at the side elevation. I have been presented no evidence to demonstrate a loss of light would not occur. Consequently, it is my judgement that the loss of daylight and sunlight resulting from the development windows would be readily perceived by occupants of White Gables.
24. The SPD acknowledges that the application of its rules may depend on site context. However, in this circumstance, the siting of the proposed dwelling would amount to a harmful loss of daylight and sunlight at White Gables and would thus harm the living conditions of its occupants.
25. The proposal would therefore conflict with LP Policies SP3 and DE1 which require development proposals not cause harm to the amenity of occupiers of adjacent properties, including though loss of light. In addition, the proposal would not satisfy paragraph 135 of the Framework which requires proposals provide a high standard of amenity for existing users.

### **Other Matters**

26. Whilst there are other listed buildings within the locality, from my observations during the site visit, and having regard to the HIA and the views of Historic England and the Council's conservation officer, I have no evidence to suggest the proposed development would affect any other listed buildings or their settings. Consequently, in discharging my statutory duties it is not necessary to consider the effects of the proposal on other heritage assets.

### **Conclusion**

27. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding. For the reasons given, the appeal should be dismissed.

*E Dade*

INSPECTOR