



Appeal Decision

Site visit made on 17 July 2024

by K Stephens BSc (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 October 2024

Appeal Ref: APP/A2470/W/24/3338847

Land off Main Street, Lyddington LE15 9LT

- 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 Clive Giles against the decision of Rutland County Council.
 - The application Ref is 2023/0451/FUL.
 - The development proposed is erection of a single dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the application was determined, a revised National Planning Policy Framework (the Framework) was published 19 December 2023. However, as any policies in the Framework that are material to this decision have not fundamentally changed, I am satisfied that neither party would be prejudiced by my consideration of the revised Framework in reaching my decision.
3. As the appeal site is located within a conservation area, there is 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 a conservation area. In considering whether to grant planning permission which affects a listed building there is a statutory duty to have special regard to the desirability of preserving the setting of a listed building under section 66(1) of the Act.
4. During the course of the appeal, the appellant submitted a signed planning obligation¹ by way of a Unilateral Undertaking (the 'UU') stating that the proposed development would be a self-build dwelling.

Main Issues

5. The main issues in this appeal are:
 - Whether the appeal site would be a suitable location for housing with regard to local and national policies, and
 - Whether the proposal would preserve or enhance the character or appearance of the Lyddington Conservation Area (the LCA) and preserve the setting of nearby listed buildings.

¹ Pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended)

Reasons

Whether a suitable location for housing

6. Policy CS4 of the Core Strategy Development Plan Document adopted July 2011 (the Core Strategy) sets out the approach to the location of development within the Council's 5-tier settlement hierarchy to provide a framework for the management of the scale of new development to deliver sustainable patterns of development in broad accordance with the Framework. Oakham is the key focus of new development, with other types of settlements taking different levels of growth. Lyddington is identified as a "smaller service centre" with a more limited range of services and facilities. These types of settlements can accommodate a minor scale of development (defined as up to 5 dwellings) mainly on previously developed land on a limited scale appropriate to the character and needs of the village, comprising affordable housing sites, infill development and conversion or reuse of redundant suitable rural buildings. In the countryside, development will be strictly limited to that which has an essential need to be located in the countryside (development types are expanded on in para 2.22 of Policy CS4) and will be restricted to particular types of development to support the rural economy and meet affordable housing need.
7. Policy SP6 of the Site Allocations and Policies Development Plan Document adopted October 2014 (the 'SAP') relates to housing in the countryside beyond defined planned limits of a settlement. New housing will be permitted where it is for essential rural workers, affordable housing that would meet an identified local housing need, the re-use or adaptation of rural buildings, or replacement dwellings, as well as extensions to existing buildings in appropriate circumstances. The approach to the location of development in rural areas is more restrictive than that in the Framework in both policies.
8. The appeal site comprises a rectangular parcel of land that forms part of a larger paddock on the northern edge of Lyddington. There is no dispute between the parties that the site lies outside but adjacent to the defined settlement boundary of Lyddington. Hence the site lies in 'countryside' for policy purposes. The proposed dwelling is not put forward as any of the above countryside exceptions. Hence the proposal would be contrary to Core Strategy Policy CS4 and SAP Policy SP6. The appellant does not dispute this.
9. However, the appellant draws my attention to a scheme for 30 dwellings allowed on appeal² in Braunston-in-Rutland whereby the Inspector found that the spatial strategy was in accordance with the Framework but that Policies CS4 and SP6 were out-of-date as the housing policies relied on "out-of-date housing requirements without a mechanism to respond to the latest housing need" and that as a result more sites for housing were needed and that the approach to housing in rural areas was, as I have found, more restrictive than that in the Framework. I appreciate I do not have the same evidence before me, but the Council has not submitted any further evidence to refute the findings of the Inspector. Therefore, the weight given to the conflict with Policies CS4 and SP6 and the Council's spatial strategy is modest.

² APP/A2470/W/23/3323746 dated 13 May 2024

Conservation area and nearby listed buildings

Significance of the heritage assets

10. Lyddington is mentioned in the Domesday survey. It was a village of significance as the location of the Bishop of Lincoln's palace and visited by King Edward I, and so saw good fortune and prosperity, which is reflected in the wealth of historic buildings. The village is located in a rural area and in a hollow that has resulted in a strong linear street pattern along Main Street from almost a mile, with buildings of different styles and designs built mainly fronting the road and close to the pavement. There is a prevailing visual harmony from the simple traditional design of the buildings and the use of a limited range of materials, such as locally quarried ironstone, Welsh slate, Collyweston stone slates and some surviving thatch.
11. The extent of the LCA includes the entire built form of the village, but its boundary also extends out to include the surrounding countryside beyond the limits of built development. This provides a strong rural and open setting to the village and the LCA. This is particularly noticeable when leaving and entering the village at the north and south where fields come to meet the road. The Conservation Area Appraisal³ (the Appraisal) describes that when entering from the north "the approach is open", which I saw to be the case on my visit. Furthermore, the northern approach into the village is identified as an "important view" on the LCA Appraisal map.
12. From the evidence before me and what I saw on site, I consider the character and appearance, and thus special interest and significance of the LCA is, in part, derived from the architectural richness and variety of its historic buildings and relationship with its open spaces and the surrounding countryside (even if not all public or highly visible) that reflect the social and economic growth of the village and its strong agrarian and rural associations and countryside setting.
13. The appeal site is part of a wider paddock presently laid to grass, although I saw that part of the appeal site currently had a shipping container and building materials on it. The site and wider paddock are visible when rounding the bend and descending into the village from the northern approach, and indeed when leaving at this point. This is reinforced in the appellant's submitted extract from the Council's Landscape Sensitivity Assessment (July 2023). The appeal site was considered as part of a larger parcel of land 'LYD1'. The Landscape Sensitivity Assessment found there was a strong rural character of the village and its surroundings and that parcel LYD1, which includes the appeal site, is important to the setting of the village on the approach from the north and that the surrounding landscape is included within the LCA because it forms an important part of the setting of the village in the countryside.
14. The appeal site also sits on the gentle brow of the hill in the village and so is a little more elevated than other parts of the wider paddock and the roadside hedge provides some seasonal screening to the site. Nonetheless, the appeal site provides a strong rural setting to this part of the village and indeed forms part of the identified 'important view' in the LCA. Hence, I find the appeal site makes a positive contribution to the open and rural character and appearance of the LCA and hence to its significance.

³ Lyddington Conservation Area Character Appraisal and Management Proposals - September 2015

15. Opposite the appeal site is a linear group of dwellings along the back of the pavement, some of which are Grade II listed buildings, namely No.117 Main Street⁴, Lapwing House (115 Main Street)⁵, Hillcrest (111 Main Street)⁶ and Westhill Cottage (109 Main Street)⁷.
16. From the listing descriptions, they range in date from the 17th to early 19th century. I saw that whilst they were of different designs, they are built of similar ironstone walls and slate roofs, were two storey and of a similar scale to each other and occupied a strong linear alignment along the back edge of the pavement. I find their special interest and significance, insofar as it relates to this appeal, are largely derived from a combination of historic and architectural interests as examples of vernacular domestic architecture during the village's evolution using traditional materials and construction. The buildings also have group value as part of the streetscene of the village.
17. As defined in the Framework Glossary and pertinent to the appeal, the significance of a heritage asset can also be derived from its setting. The Framework goes on to define the setting of a heritage asset as the surroundings in which the asset is experienced, which may not remain fixed and may change as the asset and its surroundings evolve.
18. The settings of these buildings vary in relation to their position along Main Street. Their settings will also differ compared to the previous housing scheme dismissed on appeal⁸ which involved a larger site for a terrace of 3 affordable dwellings and a detached dwelling set towards the back of the site. No.117 is farthest from the appeal site, but it looks towards the wider parcel of land and more obliquely towards the appeal site, albeit the tall roadside hedge partially screens views. Lapwing House faces towards the appeal site and the wider paddock. These properties are read as part of the start of the village as one rounds the bend that includes the 'important view'.
19. The special interest and significance of these heritage assets is derived in part from their setting as part of the wider street scene and rural setting of the village. The undeveloped and open nature of the appeal site contributes to this rural setting and agrarian context and understanding of the evolution of the village and the setting of these listed buildings. Indeed the submitted extract from the Landscape Sensitivity Assessment refers to the surrounding historic field patterns that give the area a 'time-depth dimension'. Hence the appeal site positively contributes to the setting of these listed buildings and hence to their significance.
20. No.109 Main Street and Hillcrest are located more towards the brow of Main Street as it descends into the village. They face more towards modern housing development and hence share a more built-up village setting with less of a countryside connection, although Hillcrest would still have oblique views of the proposal, but the appeal site contributes less to their setting.

⁴ National Heritage List for England: list entry number 1236870

⁵ National Heritage List for England: list entry number 1236916

⁶ National Heritage List for England: list entry number 1236869

⁷ National Heritage List for England: list entry number 1236903

⁸ Local Planning Authority ref:2018/0163/OUT and Appeal ref: APP/A2470/W/18/3207604 May 2019

Effect of proposal of the significance of the heritage assets

21. The physical presence of built development on the appeal site would erode its openness and the rural character of this northern approach to the village and diminish the open rural characteristic of the identified 'important view' into the LCA. The retention of the roadside hedge would provide some seasonal screening but would not lessen the loss of openness at this village entry/exit point. As a result the proposal would reduce the contribution the appeal site makes to the character and appearance of the LCA.
22. Furthermore, the proposed dwelling would be set back from the road a substantial distance into the site, behind a boundary hedge and lawn. It would not be set behind a wide grass verge and would be contrary to the prevailing characteristic of buildings close to the back edge of the pavement, such as the buildings opposite, which the Appraisal specifically refers to as being a "good introduction to the characteristic building form of the village".
23. The long linear form of the proposed dwelling would reflect in part the linear nature of nearby dwellings, such as Lapwing House and Hillcrest opposite, and the roofline would be varied by reducing the height of the attached garage. However, the use of tall narrow sash windows, which in themselves are not a prevailing characteristic of the local vernacular, would not present the same scale and form as the other buildings nearby which form an important view and group of buildings at this end of the village. As a result, the scale, form, siting and design of the proposed dwelling would be out of keeping and would not appropriately respond to its setting within the LCA. Whilst the summary of the Landscape Sensitivity Assessment comments that a 'limited linear northern extension of the village to Lyndon Farm may be acceptable' it also states that parcel LYD1, which includes the appeal site, is susceptible to new development that introduces built form into views currently unaffected.
24. To conclude on this main issue, the proposal would erode the undeveloped nature of the site and the open rural setting of the nearby listed buildings. Hence the proposal would fail to preserve the setting of the nearby listed buildings and would neither preserve or enhance the character or appearance of the LCA. As a result the proposal would fail to satisfy the requirements of the Act and the provisions of the Framework.
25. It would also conflict with Core Strategy Policies CS19 and CS22, and SAP Policies SP15 and SP20. Collectively these seek to ensure, amongst other things, that development is not detrimental to the character and appearance of the landscape, visual amenity or settings of villages and new development, and where possible, enhance historic assets and their settings and maintain local distinctiveness.
26. The appellant draws my attention to an extant planning permission⁹ for a stable building and hardstanding access on land to the rear of the appeal site, which would be accessed via the same entrance point onto Main Street and share part of the same proposed driveway. Whilst this would introduce built development to the northern edge of the village within the LCA, the stable building would be set back considerably from the road towards the rear of the paddock and would be for a rural-related form of development. Therefore, it would integrate better into the character and appearance of the LCA,

⁹ Local Planning Authority ref: 2021/1116/FUL dated 5 February 2024

notwithstanding that the stable block and track have not been built and the site remains open.

Heritage and Planning Balance and Conclusion

27. Paragraph 205 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. In this case, given the nature and extent of the proposed development and following the advice in the Framework, I find the harm to the significance of the LCA and nearby listed buildings would be 'less than substantial'. The appellant's Heritage Assessment also identifies there would be less than substantial harm. Nonetheless, this harm still carries considerable importance and weight. Under such circumstances, paragraph 208 requires the harm to be weighed against the public benefits of the proposal. In accordance with the statutory duties described, I attach considerable importance and weight to the harm that would be caused to heritage assets, namely the LCA and setting of the nearby Grade II listed buildings.
28. There would be some public benefits arising from the proposed dwelling. There would be some short-term employment during construction and modest benefits arising from one future family's support of the local community and services and future spend in the area. Even if the appeal site was deemed to be previously developed land (PDL) and the proposal was a more efficient use of land, PDL status does not necessarily trump other matters. The provision of a single dwelling would make a modest contribution to the Council's housing supply, but the Council can demonstrate it has more than a 5 year supply of deliverable housing land, a fact not disputed by the appellant.
29. The proposal would also be for a self-build dwelling, which is a specific type of housing. Under the Self-Build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016) and associated secondary legislation, local planning authorities are under a duty to grant a sufficient number of suitable permissions to meet the demand for self-build and custom housing (SBCH) within their area. They must also keep a register of individuals and associations of individuals who are seeking to acquire serviced plots of land in their area and publish it. The appellant confirms he is not on the register.
30. The provision of a SBCH dwelling would accord with the Framework of providing housing to meet the type and tenure of housing for different groups of the community such as "people wishing to commission or build their own homes". The Framework goes on to state that local planning authorities should seek opportunities, through policies and decisions, to support small sites to come forward for SBCH.
31. There is some dispute between the parties as to the current level of provision of SBCH. In its Delegated Report the Council states the self-build requirement is being met to meet numbers of the register. However, the appellant has submitted evidence that suggests there is a shortfall of SBCH with the situation worsening. In the absence of substantive evidence to the contrary, a shortfall in SBCH is a material consideration of significant weight. The appeal is accompanied by a UU that would secure the dwelling as a SBCH tenure into the future. This further weighs in favour of the proposal.

32. Furthermore, the Council does not have any SBCH policies. The appellant contends this triggers paragraph 11d) of the Framework, whereby if there are no relevant development plan policies, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole. The appellant has submitted a number of appeal decisions (for different local authorities and for different parts of the county) whereby other Inspectors found that a lack of SBCH policies triggered paragraph 11d), even if a Council had a 5 year housing land supply.
33. My attention is also drawn to planning permission granted¹⁰ for a self-build dwelling in Water Lane, Ashwell. The site was an infill plot within the planning limits of the village, unlike the appeal before me. With limited explanation, the Council concluded the proposal would cause less than substantial harm to the adjacent listed building and would not adversely affect the adjacent conservation area. The context of that development and location of the site are substantially different to the appeal proposal before me such that no meaningful comparisons or precedent can be made.
34. However, in this instance the proposal is for a specific type of housing and the development plan has a spatial strategy and policies that guide the location of new housing in a way that will secure sustainable patterns of development in a manner broadly consistent with the Framework. Furthermore, there are other relevant policies at play in the appeal relating to designated heritage assets that make a 'basket' of relevant policies. Therefore, read as whole the development plan is not out-of-date just because it has no specific SBCH policies and Framework paragraph 11d) is not therefore engaged.
35. With the appeal before me, the weight I ascribe to the modest public benefits above are not sufficient to outweigh the considerable importance and weight I attach to the harm that would occur to the designated heritage assets of the LCA and the setting of nearby listed buildings. Therefore, paragraph 11d) would not in any case be triggered by reason of Framework footnote 7, as there are policies in the Framework that protect assets of particular importance that provide a clear reason for refusing the development proposed, namely designated heritage assets of the LCA and setting of nearby listed buildings.
36. The location of housing outside the defined limits of Lyddington in the countryside would be contrary to the Council's housing strategy and undermine its delivery and distribution of sustainable patterns of development as well as the Framework's aim of promoting sustainable development. The weight I give to this conflict is modest in light of questions over the up-to-dateness of the Council's housing figures, as already discussed. The proposal would also be in conflict with policies regarding the protection of heritage assets
37. Consequently, the proposal would conflict with the development plan when taken as a whole. The conflict is not outweighed by public benefits or other material considerations, including the Framework, as identified above. Therefore, for the reasons above the appeal should be dismissed.

K. Stephens
INSPECTOR

¹⁰ Local Planning Authority Ref: 2023/0355/FUL dated 10 November 2023