



Appeal Decision

Site visit made on 22 October 2024

by C McDonagh BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 December 2024

Appeal Ref: APP/H0520/W/24/3341240

1 Parsonage Street, Wistow, Huntingdon PE28 2QD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a grant of planning permission subject to conditions.
 - The appeal is made by Mr Neil Green against the decision of Huntingdonshire District Council.
 - The application Ref 23/02055/FUL was approved on 8 February 2024 and planning permission was granted subject to conditions.
 - The development permitted is change of use from agricultural land to residential garden extension (retrospective).
 - The condition in dispute is No.2 which states that: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development within Class E of Part 1 of Schedule 2 and Class A of Part 2 of Schedule 2 of the Order shall take place unless expressly authorised by planning permission granted by the Local Planning Authority in that behalf.
 - The reason given for the condition is: In the interests of visual and residential amenity and to preserve the appearance of the Conservation Area and the setting of a building of special archaeological or historical significance in accordance with Policies LP10, LP11, LP12, LP14 and LP34 of the Huntingdonshire Local Plan to 2036.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. On 30 July 2024, the Government published a consultation draft of proposed reforms to the National Planning Policy Framework (the Framework). As the proposed changes do not affect the main issue of this appeal, I have not sought the views of the main parties in coming to my decision.
3. I note the Council did not consult with Historic England (HE) regarding this application. However, under Regulation 5A(3) of the Planning (Listed Buildings and Conservation Areas) Regulations 1990 (as amended), the Council must notify Historic England on development which they think would affect the setting of a Grade I or Grade II* listed building. Following my request, HE were consulted on the proposal but did not offer any comments.

Background and Main Issue

4. Planning permission was granted for the change of use retrospectively of the appeal site from agricultural land to a residential garden. Three conditions were attached to the grant of permission, one of which withdrew permitted development rights under Schedule 2, Part 1, Class A (buildings etc incidental to the enjoyment of a dwellinghouse) and Schedule 2, Part 2, Class A (gates,

fences, walls etc) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO).

5. The main issue is therefore whether condition 2 is reasonable and necessary to preserve the character and appearance of the area, including the Wistow Conservation Area (WCA), the setting of nearby listed buildings and the living conditions of neighbouring occupiers.

Reasons

Character and Appearance and Heritage Assets

6. The appeal site comprises a broadly rectangular shaped parcel of grassland. It is bound on the east by the rear garden of the host property, to the north by a cemetery, to the west by a housing development and to the south by an expanse of open agricultural fields.
7. I understand that while the host dwelling is not located within the WCA, roughly half of the appeal site is, while the other half forms part of its southern edge and therefore forms part of its setting. As such, I have had due regard to section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act). This states that with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.
8. From my observations on the site visit, the character and appearance of the WCA is largely derived from its open and verdant surroundings which contributes to a generally rural character. Much of the WCA is in residential use which is predominantly formed of low-density housing in generous detached plots. The appeal site is forms part of the southern edge of the WCA and its agricultural appearance contributes positively to the significance of the WCA as a whole.
9. The appeal site lies within the setting of several listed buildings, which I note is not disputed. As such, I have had regard to the statutory duty given in section 66(1) of the Act, which states that special regard is required to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
10. To the north of Parsonage Street is the Grade I listed building¹ 'Church of St John the Baptist'. The church is of 14th Century origin with later additions, mostly in the 15th and 16th centuries. It is built from Barnack stone with some rubblestone dressing. Its tower is of particular prominence and features an embattled parapet and diagonal buttressing.
11. From all that I have seen and read, the special interest and significance of the listed church is generally drawn from its historic and architectural interests. This includes its age, connection to the community historically and ongoing ecclesiastical use, and its traditional construction and materials.
12. The church is visually prominent given its location on the junction of Church Street and Parsonage Street. Its setting further contributes to its special interest and significance. Its immediate setting, comprising a graveyard has,

¹ List Entry Number: 1128371

to varying degrees, historic, functional, physical and visual links with the church. Moreover, the southern elevation of the church faces the cemetery adjacent the appeal site, which also has historic, functional, and visual links with the church given its proximity and historic use. This tranquil space allows the church, and its status and role within the village to be experienced and contributes considerably to both its significance as an asset, as well as the ability to appreciate that significance. Furthermore, the rural character of the village as a whole and its surrounding open environs allow the historic function of the church to be better understood as the centre of a rural parish which would have been purposely prominent in the area to attract worshippers. Overall, the setting of the listed church contributes considerably to the special interest and significance of the designated heritage asset.

13. The wall lining the attached graveyard of the church is grade II listed² and is formally known as 'Churchyard Wall to Church of St John the Baptist'. The listing description advises that it is constructed of mainly brick with some stone dating from the 15th century. Its special interest and significance lie in its age, traditional construction and materials as well its association with the church itself.
14. The setting of the wall includes those areas associated with the church, such as Parsonage Street and the adjacent cemetery. Given its historic function to delineate the immediate graveyard of the church and its intervisibility with the adjacent cemetery, its setting also contributes significantly to its significance.
15. The grade II listed³ Kingston House is located to the north of the appeal site and the northeast of the church. It is constructed from red brick with rendered exterior walls and is of late 17th or early 18th century origin. Evidently, the building has historically served as the rectory for the church. From all that I have seen and read, its special interest and significance is derived predominantly from historic and architectural interests. This includes its age, historic association with the church, its simple and pleasing architectural form and its detailing.
16. The setting of Kingston House includes the listed church, church wall and the areas along Parsonage Street, the adjacent cemetery and surrounding rural environs of the area. Taken together, there is a close historic association between the 3 listed buildings discussed owing to their shared functions and locations. As such, there is an inherent group value to the assets.
17. The appeal site adjoins the southern boundary of the cemetery. It provides a rural, open and verdant backdrop to the area and I observed on the site visit a bench had been placed near the gap looking out towards the areas of open fields to enjoy this view. Moreover, there was clear intervisibility between the appeal site, cemetery, church, its listed wall and Kingston House. The backdrop of the appeal site and fields beyond are clearly an important contributor to the rural character of the area and the special interest and significance of the designated heritage assets, including the WCA.
18. The removal of condition 2 would allow fences, gates, walls and outbuildings to be constructed in the field. This would of course be subject to the relevant restrictions and limitations of those sections of the GPDO, as the appellant

² List Entry Number: 1318025

³ List Entry Number: 1330806

points out. I am aware of the advice⁴ in the Planning Practice Guidance (PPG), which states that conditions restricting the future use of permitted development rights or changes of use may not pass the test of reasonableness or necessity. However, the appeal site is a significantly positive contributor to the character and appearance of the area, the WCA and the setting of several listed buildings due to its rural character on the edge of the village. It is therefore highly sensitive to change.

19. The removal of the conditions could allow the domestication and loss of outlook past the site from the cemetery and views along Parsonage Road, through the erection of fences or outbuildings. While this may offer some privacy to mourners in the cemetery, it would harmfully diminish this rural character and pleasant backdrop to the area while also introducing a stark and oppressive element of overtly domestic appearance to what is currently a pleasant and tranquil setting. This is of particular concern given the site is not located to the rear of the host dwelling such as its existing garden but is offset to the side and does not at present appear as part of the domestic curtilage of the host property. The condition would allow the Council to retain an element of control in determining future planning applications for elements that would ordinarily be under the provisions of the GPDO.
20. My attention is drawn to a housing development in the village at Mill Farm which was granted planning permission⁵ and listed building consent⁶ for conversions and new buildings to form housing. I observed this development on my site visit, which is also located within the WCA, involved works to a listed building and included a close boarded fence to two of the new dwelling which face the appeal site.
21. I understand that a condition attached to the grant of permission for that development also restricted permitted development rights, but this applied only to gates and not fences as it relates to Schedule 2, Part 2, Class A of the GPDO. The Council has commented that this was taken in error, although I did see on the site visit that these fences are now in place. Be that as it may, their appearance did little to convince me this would be acceptable in the appeal site. Moreover, they are set away from the gap in the treeline when viewed from the cemetery and over the existing low post and mesh fence to the fields beyond. As such, they are not as prominent. In any event, that application would have had its own site-specific circumstances and I have assessed the appeal before me on its own merits.
22. I am informed that the fields beyond the appeal site are still in agricultural use and that permitted development rights exist for these. As such, it is asserted that buildings for the purposes of agriculture could be erected in the vicinity of the appeal site. Be that as it may, it would not be unusual to see these types of buildings in a rural area and they would still be subject to restrictions and limitations in their scale and location. As such, this does not convince me the removal of condition 2 is acceptable on this basis.

⁴ Paragraph: 017 Reference ID: 21a-017-20190723

⁵ Application Ref: 18/02449/FUL

⁶ Consent Ref: 18/02450/LBC

23. There is further reference in the appellant's evidence to 'the fence proposed to the north of the residential garden in this case should be assessed favourably, thus continuing the boundary treatment along the southern edge of the cemetery.' However, the proposal before me only seeks to remove a condition relating to permitted development rights rather than erecting a fence. This has therefore not formed part of my assessment.
24. Given the important heritage significance of the area and the contribution the appeal site makes through its permeability and rural character to several heritage assets, I consider the disputed condition is reasonable and necessary in this instance to preserve the character and appearance of the area, including the WCA, and the setting of the listed church, wall and Kingston House. This would meet the 6 tests for planning conditions in the Framework and PPG and also accord with policies LP10, LP11, LP12 and LP34 of the Huntingdonshire's Local Plan to 2036 (LP) (adopted May 2019) which seek, among other things, to ensure great weight and importance is given to the conservation of heritage assets and their settings, and that development recognises the intrinsic character and beauty of the countryside.

Living Conditions

25. The reason for the disputed condition given by the Council also references residential amenity. However, the officer report and the Council's appeal statement make little assessment of this matter and it is unclear as to why the removal of the condition and thereby allowing permitted development rights as per the above would harm the living conditions of neighbouring occupiers. The nearest dwelling is the appellant's home while the site is set away from others a suitable distance to avoid harm in this respect.
26. As such, the removal of condition 2 would not harm living conditions and would accord with policy LP14 which advises that a proposal will be supported where a high standard of amenity for all users and occupiers of the proposed development and maintained for users and occupiers of neighbouring land and buildings.

Conclusion

27. I have found that condition 2 is reasonable and necessary to preserve the character and appearance of the area, including the WCA, and the setting of nearby listed buildings. It would therefore meet the 6 tests to ensure planning conditions are justified. Conversely, it is not necessary to ensure the living conditions of neighbouring occupiers is not harmed. However, this would not in itself be adequate to justify removing the condition due to the conflict with the first main issue. For the reasons outlined above, and taking into account all other matters raised, I conclude that the appeal should be dismissed.

C McDonagh

INSPECTOR