



Appeal Decisions

Site visit made on 28 January 2025

by **Elizabeth Pleasant BSc (Hons), DipTP, MRTPI**

an Inspector appointed by the Secretary of State

Decision date **11 February 2025**

Appeal A Ref: APP/B3410/C/23/3314959

Appeal B Ref: APP/B3410/C/23/3314960

Land Known as Septimus, 7 Castrum Court, Rocester, Staffordshire ST14 5PL

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended). Appeal A is made by Mr Ian Bamford and Appeal B by Mrs Sally Bamford against an enforcement notice issued by East Staffordshire Borough Council.
- The notice was issued on 14 December 2022.
- The breach of planning control as alleged in the notice is: Without planning permission, the unauthorised engineering works for the creation of a car parking area.
- The requirements of the notice are set out in Annex 1 attached to the Decision.
- The period for compliance with the requirements is 10 months.
- Appeal A is proceeding on the grounds set out in section 174(2) (a), (f) and (g) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
- Appeal B is proceeding on the grounds set out in section 174(2) (f) and (g) of the Town and Country Planning Act 1990 (as amended).

Summary Decision: The appeals are dismissed and the enforcement notice is upheld with a variation in the terms set out below in the formal decision.

Decisions on Appeals A and B

1. It is directed that the enforcement notice is varied by the deletion of the wording in paragraph 5. a), b), c), d), e), f), g), h), i), j), k), l), m), and n) and their substitution with the words “a) Remove from the land all the hardcore that has been used to create the car parking area and restore the land to its previous condition”.
2. Subject to the variation, the appeals are dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Procedural Matters and Background

3. The appeal was made on grounds (a) and (f). However, it is clear from the appellants’ appeal submissions that they also disagree with the time scale given for compliance with the Enforcement Notice (the Notice) (paragraph 6). They suggest more time is required to fully investigate the site so that the matters can be dealt with conclusively. The appeal therefore proceeds on grounds (a), (f) and (g).
4. Castrum Court is a cluster of converted barns and outbuildings within the Scheduled Ancient Monument known as Rochester Abbey and part of Roman Town. Works to create a parking area, by the excavation of ground and laying of hardstanding within the garden of No 7 Castrum Court have been partly implemented, and a partially retrospective application for planning permission was

refused by the Council, and subsequently dismissed on appeal in December 2022¹. The Council issued the Notice the subject of this appeal on 14 December 2022.

5. The alleged works were undertaken without Scheduled Monument Consent contrary to Section 2 of the Ancient Monuments and Archaeological Areas Act 1979 (the Act). Since the previous Inspector's Decision an archaeological desk-based assessment and heritage impact assessment (HIA) produced by University Leicester Archaeological Services (ULAS) has been undertaken to support the appellants' appeal. The report contains a thorough assessment of the historic and archaeological background to the site and Historic England (HE) are satisfied that it has been produced in line with all relevant standards, guidance and good practice².

Appeal A on ground (a), deemed planning application

Main Issues

6. The main issues in this appeal are:
 - the effect of the development on the Scheduled Ancient Monuments known as Rocester Abbey and part of the Roman Town; and
 - the effect of the development on the setting of Rocester Conservation Area (RCA), and the settings of the Grade II listed St. Michael's Church and The Old Vicarage.

Reasons

Rocester Abbey and part of the Roman Town, Scheduled Ancient Monument

7. The Rocester Abbey and part of the Roman Town (SAM) within which the site sits, is an extensive area located in the east of Rocester. It contains the buried remains of part of a Roman Fort and Roman Settlement as well as the medieval site of Rocester Abbey, a large open pasture, and Castrum Court. The HE listing for this site states that all Roman Forts and small towns with surviving archaeological potential are considered to be nationally important.
8. Previous excavations at the western end of the designation, where the appeal site is located, have revealed remains of a rampart and an annex to the fort, as well as a dense scattering of Roman pottery. They also indicated that the site corresponds with the location of a medieval and Roman road. Remains were present at a depth of around 150mm.
9. The shape and alignment of No 7's garden also reflects the former alignment of the rampart, which has informed the town's later spatial layout. No 7's current side garden area, also described as a paddock, has been historically undeveloped and has remained as a visual and spatial indicator of the town's former layout.
10. From the evidence available, including the list description, the HIA undertaken by ULAS and correspondence from HE, I concur with the previous Inspector's conclusion that the SAM has evidential value arising from the known archaeological remains and the potential for other buried remains dating from the Roman and Medieval periods. It also reflects the military, ecclesiastical and social evolution of the town. Its significance/special interest therefore arises from value in providing

¹ APP/B3410/W/21/3285282

² Historic England, Letter Ref: P0142808, dated 4 September 2023.

information regarding the history of the area, the Roman occupations, building methods and day to day living.

11. The Act sets out that scheduled monuments are designated heritage assets. They are, by definition, of national importance. Paragraphs 212 and 213 of the National Planning Policy Framework (NPPF) states that great weight should be given to the conservation of designated heritage assets, and that any harm to the significance of those assets, or development within its setting, requires clear and convincing justification.
12. It is understood that works to create the new driveway involved the use of a 1 tonne mini digger to remove approximately 200mm to 350mm of topsoil, subsoil which has been removed from the site and utilised by a local farm in landfill. The appellant states that builder's rubble and waste was present in the removed spoil which he believes may have resulted from the construction debris of Castrum Court. Following removal of the top/sub soil, approximately 80mm of hardcore base layer was added and rolled. Work then ceased. Although vegetation is now growing through the hardcore, its extent was still clearly visible on my site visit, including the timber edging which has been laid.
13. The HIA recognises that the insertion of the driveway was potentially deep enough to encounter archaeological deposits as noted in other parts of the site during the previous evaluation work which was undertaken in 1989. It also notes that Historic mapping evidence indicates that the assessment area is one of the few remaining areas of Abbey Fields which has not been built on and may therefore have undergone a lower degree of disturbance. Furthermore, the identification of a possible rampart made of clay in the 1989 evaluation, which is likely to have run to the east of the assessment site, suggests that any archaeology in the driveway part of the site will be outside the fort area. As such, the HIA considers that it is possible that this area may have more association with the vicus rather than any military aspects. The possible roadway entering the fort from the west was tentatively identified in 1989 and the HIA considers that it is likely to be beyond the northern limit of the inserted driveway.
14. Nonetheless, the HIA is clear that the area also has the potential of medieval deposits associated with the abbey and later periods, and in the absence of any assessment before or during the unauthorised excavation works, it is unknown as to what remains might have been destroyed. I therefore conclude that there has been harm arising from the development to the Rochester Abbey SAM.
15. The parking area is also an intrusion into the open space which has historically been undeveloped. The space is important in defining the western limits of the built development within the ancient monument, reflecting the historic shape of the former farmstead which is now residential. Whilst I appreciate that the Council has recently issued a Certificate of Lawfulness for the use of the paddock as garden land in association with the appeal property, the creation of a driveway to create a formal area for parking vehicles within the garden represents an undue visual intrusion into a significant open area within the SAM.
16. For the reasons given above, I conclude that the development has a harmful effect on the Rochester Abbey SAM. This is contrary to Section 2(1) of the Act, as well as Policies SP25 and DP5 of the East Staffordshire Local Plan, adopted 2015 (LP) which taken together seek to protect, conserve and enhance heritage assets.

17. The overall impact of the development is, in the context of the significance of the heritage asset and in the language of the NPPF, less than substantial. In those circumstances, paragraph 215 of the NPPF says that this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.
18. Even though I have found that the harm to the designated heritage asset is less than substantial, it is not to be treated as a less than substantial objection. I appreciate the appellants desire to be able to park and turn their vehicles clear of Castrum Court, and that there may be a safety benefit from vehicles exiting their premises in a forward gear. However, Castrum Court is a private road, and I have not been provided with any substantive evidence that would lead me to the conclusion that the existing situation has a harmful impact on public safety. There are therefore no public benefits that would outweigh the harm that I have identified to the heritage asset.

Rochester Conservation Area and St. Michael's Church and The Old Vicarage.

19. The appeal site bridges the Rochester Conservation Area boundary (eastern part) (RCA). The two parts of RCA are located at the key gateways to the town, with each gateway being marked by a watercourse. There is a steady transition from countryside to the town, incorporating Tutbury Mill and Abbey Fields at the eastern gateway. This part of RCA is predominantly open, but includes most of Castrum Court, a large proportion of Rochester Abbey SAM, The Cross and the listed St Michael's Church and the Old Vicarage.
20. The significance/special interest of RCA is derived from the underlying building pattern, the high proportion of intact period buildings and the relationship between the building pattern and the configuration of retained open space and countryside.
21. The previous Inspector described Castrum Court as a pleasing conversion of former outbuildings. I concur that it is a sensitive conversion and that there is an openness and spaciousness arising from the buildings' low height, simple form and the proximity to the open land to the south of the church. As set out in my first main issue, the appeal site provides a buffer between Castrum Court and the noticeably tighter building pattern of the town to the site's immediate west.
22. The unauthorised development has taken place outside RCA, but adjacent to its boundary. The undeveloped garden where the works have taken place plays an important role in reinforcing the importance of the openness contained within RCA itself and its inherent relationship to the town's earlier development. As such it contributes to the setting of RCA.
23. The encroachment of a hardstanding for the parking of vehicles onto the open area fails to preserve or enhance the character or appearance of RCA and in my view harms its setting. Although views of the parked cars from the neighbouring streets are restricted by the high hedgerows and established planting around the site, the hardstanding area and parked vehicles are visible from neighbouring dwellings and harms the historic character of the area. The harm I have identified to the heritage asset is less than substantial in NPPF terms, however, I have no evidence of any public benefits that would outweigh that harm. The development is thus contrary to the design and heritage aims of Policies SP24, SP25 and DP5 of the LP.

24. St Michael's Church and The Old Vicarage are both Grade II listed, and their significance is largely derived from their intact historic fabric, fine architectural details and their spatial relationships with the other heritage assets in the area, including Rochester Abbey SAM and The Cross. Castrum Court is close to these heritage assets, and its spatial relationship with them contributes to their significance and thus setting. However, the unauthorised development is remote from these listed buildings, and given the intervening dwellings that form Castrum Court, there is no direct visual interrelationship between them. Therefore, I do not consider that the unauthorised development is within the setting of these listed buildings, and it has no impact on their significance.

Other Matters

25. I understand that the appellants are seeking to remove a clause within the legal agreement associated with the development of Castrum Court, and which required the land to the west of No 7 to remain as grazing land. However, the legal status of this Land does not alter my reasoning and consideration with regard to the SAM and RCA and is not a matter for my consideration in this appeal.

Conclusion on ground (a)

26. For the reasons given above, and taking into account all other matters raised, I conclude that the appeal on ground (a) fails.

Appeals A and B on ground (f)

27. The issue is whether the requirements are excessive to achieve the purpose(s) of the notice.
28. Section 173 of the Town and Country Planning Act, 1990, as amended, indicates that there are two purposes which the requirements of a notice can seek to address. The first is to remedy the breach of planning control that has occurred and the second to remedy any injury to amenity which has been caused by the breach. The purpose of the notice in this case is to remedy the breach of planning control.
29. The appellants do not agree with the methodology set out in the requirements and consider them to be excessive. They have subsequently appointed archaeological advisors to assist in negotiations with HE and local planning authority representatives.
30. The works specified in the breach were undertaken without Scheduled Monument Consent (SMC) contrary to Section 2 of the Act. The Council advise that the requirements set out in the Notice were provided to them by HE as part of a brief to inform the preparation of a method statement for restoration works to be undertaken on the appeal site. The aim being to reinstate the SAM's former character, assess the impact from the previous unauthorised activities and aim to reduce the harm to the significance of the monument that has occurred as a result of the unauthorised works.
31. The scope of the Notice is limited by Section 173(4)(a), and the recipient cannot be required to undertake works that would go beyond remedying the breach. The most that they can achieve is compliance with a planning permission or restoration of the land to its previous condition. In general, requirements should not conflict with or be dependent on consents under other legislation.

32. Paragraph 5 of the Notice included 14 separate requirements, listed a) – n). The first requirement is:

- a) Remove from the land all the hard-core that has used to create the car parking area and re-introduce sterile topsoil to the level it was previous to the unauthorised development.

The remaining conditions b) – n) are concerned with advising the appellants that they are required to obtain SMC to carry out the works required to restore the land to its former condition, and specifying how those works should be undertaken, including undertaking archaeological works/assessments.

33. The appellants are aware that they will need to obtain SMC to carry out works to remedy the breach of planning control. As part of the SMC process the appellants must prepare a method statement for undertaking the repair work, and it is understood that they have submitted a scheme of works to HE. HE advise that any works that may be approved as part of the SMC would be required to comply with any conditions as may be attached by the Secretary of State for the granting of SMC, which will include an appropriate programme of archaeological supervision and monitoring.

34. However, until SMC is granted, the scope of the works required to restore the monument's former character, assess the impact from the unauthorised activities and reduce the harm to the significance of the monument that has occurred is not known. Nor is it known what conditions may be attached to any SMC granted, albeit they are likely to be similar to those set out in requirements b) – n) of the Notice. Nevertheless, those works and conditions would be dependent on and are controlled by separate legislation (SMC). To remedy the breach of planning control in this case it is sufficient for the requirements of the Notice to simply specify that the hardcore used in the construction of the car parking area be removed and the land restored to its previous condition.

35. I shall therefore vary the requirements to that effect, and to that extent the appeal on ground (f) succeeds.

Appeals on ground (g)

36. This ground is that the period specified for compliance with the Notice is unreasonable. The appellants disagree with the timeframe of 10 months given to complete the restoration. However, they do not specify a different timescale, nor do they indicate why 10 months would be insufficient.

37. Given the scale of the works required, HE is of the view, that in their experience in handling SMC, 10 months provides sufficient time for the appellants to apply for and gain SMC and comply with the terms of the Notice, as varied³. I am also mindful that the appellants have now employed an archaeological advisor and engaged with HE in relation to the proposed remediation works.

38. Having regard to the above, it seems to me that 10 months would provide sufficient time to comply with the Notice, as varied. The appeal on ground (g) fails.

³ Historic England, Ref: P01428028, letter dated 23 March 2023 to PINS.

Overall Conclusion

39. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the enforcement notice with variations and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Elizabeth Pleasant

INSPECTOR

Annex 1 - Requirements

- a) Remove from the land all the hard-core that has used to create the car parking area and re-introduce sterile top soil to the level it was previous to the unauthorised development.
- b) No works whatsoever are to be conducted on the land until Scheduled Monument Consent has been granted and any conditions required on the Consent must be complied with.
- c) The required works for a) above must be undertaken by hand or by small mechanical excavator and mini-dumper of no more than 1.9 ton in size. The excavator must be fitted with a flat bladed bucket.
- d) The required works for a) above must be undertaken under an appropriate programme of archaeological supervision and monitoring as advised by Historic England prior to commencing the works.
- e) All equipment and machinery shall not be operated within the scheduled area in a manner likely to cause damage or ground disturbance to the monument.
- f) The required works for a) must not be undertaken in wet conditions where rutting or damage of the ground surface might occur. Protective boards or matting must be used to protect the ground if there is a risk of ground disturbance. If conditions deteriorate whilst works are on site, advice of Historic England must be sought regarding the continuation of works and Historic England can require works to cease until conditions improve.
- g) Photographs of all areas of work shall be prepared both before commencement and following completion of works.
- h) The mechanical removal of the hard-core shall be limited in depth to the base of the stone hard-core and no deeper.
- i) A suitably qualified archaeological contractor must be commissioned to undertake a programme of archaeological assessment following the removal of the hard-core. The assessment must include details of the cleaning of the area of the unauthorised works and provide an accurate recording and mapping of any visible recognisable or potential archaeological features.
- j) The methodology for the scope of the archaeological works must be set out in a Written Scheme of Investigation (WSI), agreed and approved in writing by Historic England. The WSI must include provision for appropriate post-excavation assessment, reporting and archiving. A report of the archaeological supervision and recording shall be submitted to Historic England and Staffordshire Historic Environment Record (HER) within 1 month of the completion of the works.
- k) Prior to the completion of the archaeological works required for a) above, the preliminary results shall be discussed with Historic England. Should archaeological features be present, the contractors shall agree whether any additional protection (such as protective membranes or similar) are required prior to the back filling.
- l) Following the completion of the archaeological recording, the site shall be backfilled with an appropriate sterile topsoil mix and the landowner shall ensure that a permanent and continuous grass cover is established and maintained over the re-instated areas.
- m) All those involved in the works shall be informed of the scheduled monument status of the site and advised of the strict limits of the consented works.
- n) The works must comply with any conditions as may be attached by the Secretary of State for the granting of Schedule Monument Consent.