

## Appeal Decision

Site visit made on 12 April 2016

by **Stephen Normington BSc DipTP MRICS MRTPI FIQ FIHE**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 18 May 2016

---

**Appeal Ref: APP/B3030/W/15/3140822**

**The Old Hall, Church Lane, Lowdham, Nottinghamshire NG14 7BQ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr & Mrs Stewart against the decision of Newark & Sherwood District Council.
  - The application Ref 15/00724/FUL, dated 27 April 2015, was refused by notice dated 29 June 2015.
  - The development proposed is a four bedroomed house with garage and associated landscaping.
- 

### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues:
  - Whether the proposal is inappropriate development in the Green Belt.
  - The effect on the openness of the Green Belt.
  - The effect on designated heritage assets and in particular the setting of 'The Old Hall' which is a Grade II\* Listed Building and whether the proposed development would preserve or enhance the character or appearance of the Lowdham Conservation Area.
  - The effects on ecology and archaeology.
  - If the proposal is inappropriate development whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

### Reasons

#### *Inappropriate development*

3. Irrespective of the appellants views about whether the site should be in the Green Belt or not, it is located within designated Green Belt. Paragraph 89 of the National Planning Policy Framework (the Framework) sets out that the construction of new buildings should be regarded as inappropriate in the Green Belt. One exception is limited infilling in villages. Spatial Policy 4B of the Newark and Sherwood Local Development Framework Core Strategy
-

Development Plan Document (2011) (CS) generally accords with paragraph 89 and, amongst other things, seeks to focus new housing within Village Envelopes and requires development proposals in the Green Belt to be judged against national Green Belt Policy.

4. As a matter of fact the appeal site lies outside of the defined Village Envelope of Lowdham. Moreover, although it is relatively close to the centre of the village, the site provides a definitive visual break between the urban grain of the village to the south and east and the open countryside to the north. For these reasons and notwithstanding the design of the new house, the proposal cannot be considered to represent limited infilling within a village. Consequently, I find that the proposed dwelling would amount to inappropriate development within the Green Belt and thus it conflicts with the Green Belt protection aims of CS policy 4B. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

#### *Openness of the Green Belt*

5. A fundamental aim of Green Belts is to keep land permanently open. An essential characteristic is their permanence. Whilst I note the consideration given to the design in order to integrate the new house with the character and appearance of the appeal site, the proposal would still change the topography of the land and result in significant built development where there is presently none. It would also erode the current important gap between The Old Hall and the village. The scheme would thus harm the openness of the Green Belt.
6. I accept that the existing hedgerow and topography of the field would mean that it would be relatively difficult to see the development in public views. However, the proposal would have an urbanising impact on this open field and thus conflict with one of the five purposes of Green Belt which is to safeguard the countryside from encroachment.
7. In view of the above I find that the development would lead to a significant loss of Green Belt openness and would impact on the Green Belt purpose of safeguarding the countryside from encroachment.

#### *Heritage assets*

8. The appeal site is located to the south of 'The Old Hall' which is a Grade II\* Listed Building and lies within the Lowdham Conservation Area. The Old Hall sits in its original plot, in substantial landscaped grounds which includes the site of Lowdham Castle, located to the north west of the Hall. The extensive grounds in the vicinity of the hall reflect its status as an important building within the historic core of Lowdham and form part of the historic entity, along with the Old Hall and the site of the castle.
9. I recognise that the dwelling has been designed and located in an attempt to minimise its impact in views to and from The Old Hall. Whilst the site has a different character to the more managed and landscape gardens immediately surrounding The Old Hall, it nevertheless makes a positive contribution to the setting of the Listed Building by being an important component of the historic ensemble of external space that helps to define the character of the building and that of the former manorial complex. The setting of The Old Hall is that of an historic building set within spacious grounds in the countryside.

10. The proposal would result in the loss of the open aspect of the appeal site that makes an important contribution to the setting of the Listed Building. This would be replaced by a self-contained plot with built development having a significant linear and angular elevation and positioned close to the property boundary with the heritage asset. In addition the current natural gentle slope of the paddock would be interrupted by the engineered earthworks that would change the topography of the land in order to construct the dwelling and associated water feature and rill. The above ground features, in particular the tower and vertical fin structures, whilst contemporary in design, would markedly contrast with the design elements of the nearby Listed Building.
11. The development would therefore fundamentally and unacceptably change the spacious character and appearance of the appeal site and result in its severance from the setting of The Old Hall. As a consequence, the proposal would harm the significance and setting of the Listed Building.
12. The open and spacious nature of the site also contributes significantly to the appearance of this part of the conservation area containing the Listed Building. For the reasons outlined above, the development would also harm the character and appearance of the site. Consequently, the proposal would fail to preserve the character and appearance of the conservation area.
13. In the parlance of the Framework I consider the impact on the significance of the designated heritage assets would be less than substantial. Nevertheless, any harm should require clear and convincing justification. In this case there are no public benefits that would outweigh the great weight that should be given to the designated heritage assets conservation.
14. The proposal would be contrary to Core Policy 14 of the CS and Policy DM9 of the Newark and Sherwood Local Development Framework, Allocations and Development Management, Development Plan Document (2013) (DMP). These policies, among other things, seek to ensure that new development preserves the character and appearance of conservation areas and also preserves or enhances the setting of the District's heritage assets.

#### *Ecology/Archaeology*

15. Whilst I observed that the appeal site was in active use as a paddock, I am mindful of the comments provided by Nottinghamshire Wildlife Trust who indicate the potential for protected species to be present on the site or immediately adjacent. I have attached significant weight to these comments. I also note that the appellant also recognises that there is a possibility of protected species being present on the site.
16. Paragraph 99 of the Government (ODPM) Circular 06/2005, which remains in force, indicates that a survey should be carried out before planning permission is granted where there is a reasonable likelihood of a protected species being present and affected. Consequently, it advises that surveys should only be required by a planning condition in exceptional circumstances.
17. Given the potential for protected species on the site, an ecological survey should have been submitted prior to consideration of the proposal by the Council. Taking into account the advice contained within Circular 06/2005, I do not have any evidence to indicate that there are any exceptional circumstances in this case to suggest that such survey could be required by a pre-

commencement planning condition. Consequently, the proposal would be contrary to Core Policy 12 of the CS and Policy DM7 of the DMP. These policies, amongst other things, seek to protect and enhance ecological assets.

18. Given the proximity of the site to remains of the motte and bailey and the present Hall, I accept the views of Nottinghamshire County Council's Archaeology Officer that the appeal site has been associated with the use of the locality as a manorial centre from the middle-ages. Moreover, Historic England advises that historic mapping indicates that the appeal site has remained undeveloped through to the present time and that it is likely to hold high archaeological potential which contributes to the significance of the heritage asset.
19. I have taken into account the advice contained within paragraph 128 of the Framework which indicates, amongst other things, that in determining planning applications on sites on which development is proposed that has the potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk based assessment and, where necessary, a field evaluation. I have attached considerable weight to the advice contained within this paragraph.
20. In view of the above this is circumstance where an appropriate assessment and any other investigations should have been submitted prior to the determination of the planning application. As a consequence, the impact of the development on the significance of heritage assets of archaeological interest has not been evaluated and it is not a matter that should be adequately left to a pre-commencement planning condition.
21. I find that the proposal would be contrary to Core Policy 14 of the CS and Policy DM9 of the DMP. These policies, amongst other things, require development proposals to take into account the effect on archaeology and require the submission of an appropriate desk based assessment and, where appropriate, a field evaluation in order to assess the archaeological potential of the site.

#### *Other considerations*

22. The appellant's case is founded mainly on the assertion that the proposed development would not have an adverse effect on the openness or character and appearance of the area and would constitute an exceptional and innovative house design in the countryside. Given my findings above I disagree and attach little weight to these matters
23. Whilst there appears to be some dispute between the main parties in this appeal as to whether the proposal constitutes an exceptional or innovative design, the guidance provided in paragraph 55 of the Framework relates to isolated locations within the countryside. Given the proximity of the site to the village centre, I agree with the Council that the site cannot be considered as being an isolated location. Consequently, I also attach little weight to this matter.

#### *Conclusion*

24. The appeal proposal would be inappropriate development that would be harmful to the Green Belt by definition. Further Green Belt harm would arise due to the loss of openness and to the purpose of safeguarding the countryside

from encroachment. There would be other harm to heritage assets and ecology.

25. Substantial weight should be given to any harm to the Green Belt and very special circumstances will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. The other considerations in this case do not clearly outweigh the harm. Consequently, the very special circumstances necessary to justify the proposed development do not exist.
26. Having had regard to all other matters raised, I conclude that the appeal should be dismissed.

*Stephen Normington*

INSPECTOR