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## Appeal Decision

Hearing held on 13 October 2015, 4 and 5 May 2016

Site visit made on 4 and 5 May 2016

**by Tim Wood BA(Hons) BTP MRTPI**

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

**Decision date: 17 June 2016**

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**Appeal Ref: APP/U2805/W/15/30005683**  
**Land off Bury Close, Cottingham LE16 8XF**

- 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 Kiff and Troke Partnership against the decision of Corby Borough Council.
  - The application Ref 14/00094/OUT, dated 21 February 2014, was refused by notice dated 20 January 2015.
  - The development proposed is for up to 31 dwellings with new access, with landscape and layout.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The planning application was originally made to the Council for up to 75 dwellings; this was subsequently amended to 57 dwellings. As part of the appeal the appellants made further amendments to reduce the scheme to 33 dwellings and now have reduced it to 31 dwellings.
3. The Hearing opened in October 2015 and was adjourned in order for sufficient consultation and consideration to be undertaken in relation to the 33 house scheme. Shortly after the adjournment the appellants reduced the scheme to 31 dwellings and this has been the subject of consultation and consideration by the Council. The Council resolved that it would have refused the 31 dwelling scheme had an appeal not been under consideration.
4. The appeal relates to an outline proposal with access, landscaping and layout to be considered at this stage.

### Main Issues

5. The main issues in this appeal are;
  - The effects of the proposal on the adjacent listed building and Conservation Area
  - The effects of the proposal on landscape, views and settlement pattern
  - The effects of the absence of a 5 years supply of housing land.

## Reasons

### ***The effects of the proposal on the adjacent listed building and Conservation Area***

6. The appeal site comprises around 3ha of open land currently used as pasture. It sits immediately to the south of the merged villages of Cottingham and Middleton. The land rises to the south and terminates on the ridge of this scarp slope which accommodates the National Trail – The Jurassic Way.
7. Cottingham Hall sits immediately to the north of the appeal site. This is an important grade II\* listed building, said to have its origins in the 17<sup>th</sup> Century with 18<sup>th</sup> and early 19<sup>th</sup> Century additions. The appeal site sits within the recently extended Cottingham and Middleton Conservation Area. The appellants and the Council appear to be in agreement in relation to the importance of the listed building and the appellants state that *“the building as a whole is one of very high quality architecturally and historically interesting.”*
8. Reference is made to the Historic England publication *‘The Setting of Historic Assets’* – Good Practice advice in Planning: 3 (GPA3). This offers advice in identifying the setting of an asset and on its contribution to significance. It advises that setting does not have a fixed boundary and that the setting of an asset may reflect the character of the wider landscape in which it is situated, whether fortuitously or by design. The appeal site would include the provision of up to 31 houses on the western side of the land and an open area (the majority of the whole) to the east. The appellants and the Council set out the history of the Hall and the surrounding land; it is generally agreed that there is a historic connection with the eastern section of the site. This along with its contribution to the setting of the Hall as it currently sits has resulted in the appellants indicating that this part of the site should be kept open. In relation to the western part of the site, records indicate that this was in the same ownership as the Hall and at some stage had been leased to another party.
9. The more recent development forming Bury Close has encroached on the setting of the Hall and it is common ground that this was done with little regard to the Hall and has a negative effect on its setting. The openness of the western part of the site is apparent when on parts of the Jurassic Way and the particularly striking view of the Hall as one emerges from the western section of the path does take in part of the proposed housing area. When within the garden of the Hall the openness of this part of the site is readily apparent. From my consideration of the setting of the Hall, I conclude that the western part of the appeal site does fall within the setting of the listed building; it adds to the pastoral character and appears visually to be closely associated with the Hall. Its openness contributes positively to the setting of the Hall when viewed from other surrounding land, including the Jurassic Way, and also from the Hall and its formal garden area. This open setting provides an undeveloped backdrop against which the architecture and status of the building can be appreciated and it provides a strong historic agricultural impression. The location of the Hall with its close formal garden, within a wider sweep of open/agricultural land is picturesque and attractive. I agree with the appellants that this impression is perhaps more fortuitous than designed, but nevertheless an attractive one which enhances the listed building.
10. The new houses would be seen from the Jurassic Way and from within the Hall and its grounds. There was not full agreement on the extent of their visibility

but from my consideration of this and having walked the section of the Jurassic Way several times and visited the Hall, I consider that the presence of the houses would be noticeable from the Jurassic Way, although filtered by trees on some sections and from within the building at the Hall some views would be gained; in addition, from within the garden area of the Hall, the new houses would be particularly noticeable, even though some screening by vegetation is proposed. I have taken account of the discussions at the Hearing in relation to the levels of the proposed houses and to the proposed landscaping, but I consider that their presence would still be obvious and they would be a distraction to the Hall.

11. The appellants indicate that the proposal would help to screen the rear of the nearest existing house on Bury Close and that the proposed houses would be screened in some views. It was generally accepted that the form and proximity of the nearest existing house on Bury Close has a negative effect on the setting of the listed building. Taken in isolation, the screening of this property from views from the south would be a positive feature. However, the appeal scheme would bring about the intrusion of a significant number of dwellings within the setting of the listed building which would have its own negative effect; in my judgement, this would outweigh the benefit of screening the existing property. The appellants also point to changes to the landscaping which are set out as positive elements. These include; screening landscaping; improvements to the open area; public access to the open area. In relation to screening, I consider that this would only be partially successful and the presence of the new houses would remain obvious. There is a further effect as set out by the Council that the combined effect of the housing and screening would be to unacceptably erode the open nature of the land here. The proposed landscape management would have some benefit in relation to tree management and the care of the open area. However, I find that, whilst it is obvious that some trees need some attention, the existing landscape as rough pasture is not unattractive and the changes proposed would not be sufficient to outweigh the harm that I envisage. The proposed public access may be aimed at satisfying other objectives but I do not find that it would alleviate or outweigh the negative effects of the proposal.
12. In relation to the conservation area, it is accepted by the main parties that there is a significant degree of cross-over in relation to the effects on the setting of the listed building and the effects on the character and appearance of the conservation area. The appeal site is included in the recently expanded conservation area boundary, along with land to the west. The *Conservation Area Appraisal and Management Plan (CAAMP)* identifies differing character areas and places the appeal site in Area 2 'Bury Close and Cottingham Hall'. It describes the Hall as the most important historic dwelling in the conservation area and identifies its open setting to the south as 'striking'. The views from the Jurassic Way towards the Hall and the villages are shown as significant views which allow the layout of the villages at the foot of the scarp to be appreciated.
13. In my view, not only does the appeal site form an important element in the setting of the listed building but, for the same reason, it adds to the character and appearance of the conservation area. In addition, the broad open area formed by the appeal site and land to the east and west forms a considerable section of open land on the scarp which provides an attractive rural/semi-rural backdrop to the development at the foot of the scarp. I consider that for this

reason also, the appeal site makes a positive contribution to the character and appearance of the conservation area due to its open undeveloped nature. Although elements of landscaping are proposed, it is my view that the fundamental appearance and character of the western section of the site would be unacceptably altered by the proposed development and these are not matters that are outweighed by any matters put forward as mitigation or benefit, as discussed above.

14. As a result of my reasoning I conclude that the proposal would fail to preserve the setting of Cottingham Hall and would fail to either preserve or enhance the character and appearance of the Cottingham and Middleton Conservation Area. In this way the proposal would have a harmful effect on the setting of the Hall and on the conservation area; one which I judge would be 'less than substantial harm' as set out in paragraph 134 of the National Planning Policy Framework (the Framework). I attach considerable importance and weight to this harm in the determination of this appeal.

***The effects of the proposal on landscape, views and settlement pattern***

15. The Council sets out that they consider that the proposed development would have an unacceptable effect on the landscape by the imposition of residential buildings onto the steep upper scarp slope, which is a distinctive landform. They state that it is uncharacteristic for development to take place on this part of the slope and that it would affect the landscape and views from nearby and from further afield.
16. I have closely examined the submissions and evidence presented in relation to landscape, including visits to the various viewpoints included within the statements. From my assessment of this, I consider that within the close locality of the appeal site, the proposal would have an unacceptable effect on the landscape and views, as it is experienced within the context of the conservation area and as part of the setting of the listed building, for the reasons set out above.
17. From the wider context from the north, views are presented which include montages of the proposed development set within the landscape. It is evident that these wider views include development at or above similar elevated levels to the appeal site; these are seen both to the east and west of the appeal site but outside its immediate context, some outside the conservation area. Within this wider context where the appeal site would be seen as a very small part of the overall landscape, I do not consider that the introduction of development on this section of the slope would have an unacceptable effect when seen within these wider perspectives, where other development at this level and higher is clearly visible, including some which break the skyline.

***The effects of the absence of a 5 years supply of housing land***

18. It was agreed by the Council and the appellant that the Council cannot demonstrate a suitable 5 years' supply of housing land. However, the magnitude of the shortfall was not agreed and was the subject of discussion. In short, the Council considers that it can demonstrate a supply of 3.66 years and the appellant puts forward a figure of 2.53 years, both including an appropriate buffer.

19. The discussions and evidence concentrated on the difference between the Council's and the appellants' expected delivery of housing on 8 sites. I do not intend to set out a site-by-site analysis of the relative arguments as a number of points are common to a number of sites. In general, the appellants have set out that the delivery of houses on these major sites would be affected by the desire of the developers to not flood the market with new homes, wherein the finite demand would result in increased competition leading to slower sales and reduced prices. This is a general point that I accept will be likely to have an influence on delivery where so many different house-builders are involved but I would tend not to be as pessimistic as the appellants and accept to some extent the Council's view that in some instances sales are forthcoming.
20. Other possible reasons for lack of delivery include developers going into administration, lack of planning permission for some sites and associated timescale differences. Having considered the content of the evidence and discussions, it seems to me that the Council's figures are based on an optimistic set of circumstances which would stretch a realistic assessment of likely events. However, I tend not to assess the situation as gravely as the appellants and so my view is that the realistic supply of housing land would sit somewhere between the 2 suggested figures. This is still a notable shortfall to which I attach due weight.

### **Overall Conclusions and Planning Balance**

21. The North Northamptonshire Core Spatial Strategy (CSS) was adopted in 2008. Policy 9 relates to the distribution and location of development and states that development will be distributed to strengthen the network of settlements and new development in the open countryside outside the Sustainable Urban Extensions (SUEs) will be strictly controlled. In relation to housing Policy 10 states that new housing will be focused at the 3 Growth Towns with modest growth at the Smaller Towns and Rural Service Centres, limited development in the villages and restricted development in the open countryside. The emerging North Northamptonshire Joint Core Strategy is yet to be adopted and although it has reached an advanced stage, I am informed that there are significant and unresolved objections to it which have implications for policies including Policy 28. The opinion of the Council and the appellants differ on this matter but in the light of what I heard and the fact that I only have limited information, I attach only limited weight to it in this appeal.
22. As discussed above, the Council is unable to demonstrate a 5 years' supply of housing land and paragraph 49 of the Framework advises that relevant policies for the supply of housing should not be considered up-to-date in such circumstances. I have taken account of the likely quantum of the shortfall and also to the actions being taken by the Council to address this. In my view the weight to be given to the conflict with these policies set out above is reduced.
23. However, and in the light of the recent Court of Appeal judgement in the case of *Suffolk Coastal DC, Hopkins Homes Ltd, SSCLG, Richborough Estates LLP, Cheshire East BC and SSCLG*, policies which have an effect of influencing the supply of housing land "...by restricting the locations where new housing may be developed..." including those policies "...whose purpose is to protect the local environment in one way or another by preventing or limiting development" may be considered as relevant policies. In relation to CSS Policy 13, I consider that the protection of, amongst other things, designated environmental assets

and their setting is an important aim which also carries a statutory duty; accordingly I shall attach significant weight to this aspect of policy.

24. Paragraph 14 of the Framework refers to situations where the development plan is absent, silent or relevant policies are out of date. It states that planning permission should be granted unless, i) the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, or ii) specific policies in the Framework indicate development should be restricted. Footnote 9 then gives some examples of 'specific policies' and includes reference to designated heritage assets. Paragraph 134 of the Framework sets out the policy in relation to proposals which result in 'less than substantial harm' to the significance of a designated heritage asset and states that such harm should be weighed against the public benefits of the proposal. Paragraph 47 of the Framework seeks to boost significantly the supply of housing and the Council is unable to demonstrate a 5 years' supply; the appeal scheme would make a contribution to this deficit, including the provision of a proportion of affordable homes which, evidence indicates, has been particularly poorly delivered in the Borough. I attach considerable importance to these matters.
25. There are other benefits put forward by the appellants in relation to additional landscaping of the area, landscape management and public access to the open area of the proposal. I attach only limited weight to the landscape improvements for the reasons set out above and I consider that the closer views of the listed building afforded by public access would not weigh heavily in the balance. In relation to the provision of additional green-space for residents, there was no evidence that this is in short supply in the locality and my attention was drawn to an area of publicly accessible open land held by the Parish Council a very short distance from the appeal site. The appellants add that the jobs created or sustained in the construction industry and the spending of future residents would boost the local economy.
26. Set against these benefits is the harm that I have identified. The development would be on a site outside the village boundary and so in the countryside. This would not comply with Policies 9 and 10 of the CSS. However, the weight, and so the conflict with, those policies is reduced in my judgement due to the Council's housing land supply position. In relation to the effects on the listed building and the conservation area, the Framework advises that in considering the impact of development great weight should be given to the asset's conservation; the more important the asset, the greater weight that should be. Although I have identified the harm to the significance of the conservation area and listed building as 'less than substantial' that does not mean that it is unimportant. Taking account of the status of the listed building and the effects on the very recently extended conservation area, I consider that the harm is of considerable importance and weight. In my view the benefits are insufficient to outweigh the serious and irreversible harm that would be caused on the significance of the conservation area and the Grade II\* listed building. As a consequence I conclude that the appeal scheme would fail to preserve or enhance the character and appearance of the conservation area and fail to preserve the setting of the listed building, contrary to Policy 13 of the CSS and relevant policies in the Framework.

**Other Matters**

27. The appellants have submitted a completed Unilateral Undertaking relating to the various requirements of the Council which would come into place if the scheme were to go ahead. As these relate to matters which should only be seen as arising directly from the scheme or in mitigation of its effects they are not considered as benefits. As the scheme is to be refused permission for other reasons I have not examined the Undertaking here any further.

**Overall Conclusion**

28. For the reasons set out above, the appeal is dismissed.

*S T Wood*

INSPECTOR

Richborough Estates

## **APPEARANCES**

### FOR THE APPELLANT:

C Young  
D Miele  
M Band  
B Greep  
T Coleby  
J Stacy

### FOR THE LOCAL PLANNING AUTHORITY:

D Lintott  
G Farrier  
H Emery  
G Smith

### INTERESTED PERSONS:

O Davison  
J Smith  
S Brant  
N Rogers  
S Wood

### DOCUMENTS SUBMITTED AT THE HEARING

- 1 Adoption Statement for Conservation Area Appraisal and Management Plan
- 2 Appendix GS6 of Mrs Smith's statement
- 3 Replacement Appendix HE2 of Ms Emery's statement
- 4 Note and plan relating to sections, submitted by the Council
- 5 Plan and sections submitted by appellants
- 6 Large photos and montages bundle submitted by appellants
- 7 Signed Statement of Common Ground
- 8 Draft of Unilateral Undertaking
- 9 Agreed schedule of Conditions
- 10 Note from Mr Smith in relation to JPU representations
- 11 Hopkins Homes and Richborough Estates judgement
- 12 Forest of Dean judgement
- 13 3 Tables relating to housing land supply