



## Appeal Decision

Site visit made on 9 October 2018

by **Jonathan Hockley BA(Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: Thursday, 28 February 2019

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### Appeal Ref: APP/J1915/W/17/3181608

### Land at North Drive, High Cross SG11 1AR

- 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 \_\_\_\_\_, Beechwood Homes Ltd against the decision of East Hertfordshire District Council.
  - The application Ref 3/17/0251/FUL, dated 1 February 2017, was refused by notice dated 21 June 2017.
  - The development proposed is the erection of 21 dwellings with associated parking, landscaping, open space and access.
  - This decision supersedes that issued on 22 March 2018. That decision on the appeal was quashed by order of the High Court
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. During the planning application the number of proposed dwellings on the site reduced from 21 to 20. While the description of the proposal in the banner above references that applied for in the application form, I have dealt with the scheme for the lower number of houses as dealt with by the Council in their decision.
3. Both main parties considered that the appeal could be dealt with under the written representations procedure. Having considered the matter I am of the view that the planning issues involved in the case can be readily understood from the appeal documents and site visit, and furthermore that the issues raised are not complex and do not require questioning.
4. During the course of my consideration of the appeal the East Herts District Plan was adopted, on 23 October 2018 (the District Plan). Policies which are referred to in the Council's decision notice from the previous Local Plan have subsequently been superseded. Both parties were given further opportunities to comment on this change to the development plan during the appeal process.

### Main Issues

5. The main issues in this case are as follows:
  - the effect of the proposed development on the setting of nearby listed buildings; and

- the effect of the proposed development on the character and appearance of the area.

## **Reasons**

6. High Cross is a fairly small settlement, based around the old Roman road of Ermine Street (called High Road in the vicinity of the village) and the junctions of this road with Marshalls Lane and North Drive. Aside from Marshalls Lane, development is largely focused on the road itself and on land to the east of the road. On the northern side of the village lies the Grade II listed Church of St John the Evangelist which visually forms the focal point for the settlement. North Drive is fairly well built up from the junction with High Road, particularly on the southern side. On the northern side of the road development is more spread out, largely due to the appeal site which is a reasonably large open paddock/field encircled by trees.
7. The appeal site is roughly square in shape, and aside from the trees is bordered by North Drive to the south, with an access track to the Church, Rectory and an additional property running along the west side of the site and a small Church car park to the north west of the appeal site. To the north of the site lies the Grade II listed Rectory and its grounds. To the east of the site lies the rear of gardens to properties on Poplar Close, as well as a property on North Drive at the south east side of the site.

### *Listed Buildings*

8. Section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990 requires that when considering whether to grant planning permission for development which affects the setting of a listed building, special regard should be had to the desirability of preserving its setting.
9. Paragraph 193 of the National Planning Policy Framework (the Framework) says 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, irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Significance can be harmed or lost through alteration or destruction of a heritage asset, or by development within its setting. The Framework defines setting as the surroundings in which the asset is experienced. Elements of setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance, or may be neutral.
10. The Church of St John the Evangelist was constructed in 1846 to a design by Anthony Salvin, and is constructed in ragstone with limestone dressing. A tower with ashlar battlemented parapet and small copper spire was added in 1906, and is sited on the south west of the Church, close to the appeal site. The building has a steep slate roof and diagonal corner buttresses are noticeable.
11. The Rectory is noted by the listing to date from 1846, and is stated to have also probably been designed by Anthony Salvin. The property is substantial and appears from public areas and the appeal site to in effect have two façades; towards the south and the site, and towards the west and the Church. The residential house is constructed in red brick with a red tile roof. The brick work contains interesting black diaper patterns at first floor level and on the

chimney breasts, with distinctive tall lower windows each side of French doors. Decorative patterns of glazing bars in squares and octagons in mullioned and transomed 3-light windows are visible in its south elevation. The appellant notes that the Rectory's principal relationship is with the Church as signified by the addition at the end of the listing as "included for group value". However, even though the listing states that it is listed for group value it is nonetheless a listed building, which falls to be considered as such.

12. The significance and special interest of the Church derives from its stature, its architectural design and detailing, with the Rectory also attaining significance from its detailed design. The setting of the two buildings is enhanced by each other, and encompasses the appeal site. My site visit took place in early October when much of the tree cover to the sides of the site remained; nevertheless the Church was clearly visible to the south east and substantial glimpses of the Rectory's south façade could be seen from the site and more distantly from North Drive. Distinctive and attractive views of the Church's tower and spire could be clearly seen from North Drive, particularly from the south east where there is a lack of trees adjacent to the entrance to Little Duncans. From this angle when travelling towards the west the Church is very noticeable and the empty green space of the site clearly contributes to its setting.
13. The appellant's evidence notes that the appeal site was a glebe; that is, land devoted to the maintenance of the incumbent of a church and hence the appeal site also has a historical connection to the Church. While I appreciate that a glebe does not have to be located close to the Church, its close physical connection in this case, sited close to an entrance to the Church and its graveyard, and overlooked by the south façade of the Rectory, adds to its significance as part of the setting of the heritage assets.
14. The development would involve the construction of a range of houses and apartments largely located around the edge of the site, aside from the boundary with North Drive which is kept reasonably open adjacent to the access. The interior of the site would have a fairly large open space and play area. However, despite these measures the proposal would still have a significant effect, altering it from an open space close to the heritage assets to one with the appearance of a small housing estate.
15. While there is existing surrounding development to the south of the Church, the construction of the proposal would have an adverse effect on the setting and therefore the significance of the Church, altering substantially the character of the appeal site and bringing built development close to the Church in an area which has been historically linked to the Church and free from development. The effect would be particularly noticeable from the south east corner of the graveyard, where instead of the current open vista beyond the small car park there would be a view of the side and rear of two storey houses, and would be more significant in views of the heritage asset from North Drive adjacent to Little Duncans. In such views the primacy of the Church tower and spire would be diluted and replaced to a fairly large extent by the pyramidal roof of units 16-18 and the hipped roof of plots 19-21. While distance, proposed planting and the height of the proposed dwellings would slightly lessen such effect, and the height of the church tower and spire would mean that it would still remain visible, harm would still be caused.

16. The primary relationship for the Rectory is with the Church, which the proposal would not alter. However, there would remain an adverse effect upon the setting of the Rectory; while lesser than that upon the Church it would still be impacted upon adversely by the development of a site that would historically have been overlooked as an open space from the grand openings on the south façade of the Rectory.
17. Having regard to the advice in the Government's planning practice guidance I consider that the scheme would not reach the high hurdle of substantial harm (as defined in the Framework) to the setting and therefore the significance of the heritage assets. However, though less than substantial, there would, nevertheless, be real and serious harm which requires clear and convincing justification. I note in this respect that the appellant also considers that the proposal would cause less than substantial harm to the setting of the two listed buildings. Paragraph 196 of the Framework indicates that such harm is to be weighed against the public benefits of the proposal, including securing its optimum viable use.
18. The public benefits of the scheme include the economic and social benefits arising from the provision of additional housing, both market and affordable, in the heart of the village. The scheme would generate economic benefits through both its construction and the activities of future residents of the proposed houses; such residents would also contribute socially to the village. While 20 houses is not an especially high number of dwellings, in the context of a village the size of High Cross it would be a reasonably significant development.
19. Benefits are also outlined of the ecological effect of the scheme. Due to the scale of the site and available land used for planting such benefits would be limited. A benefit to the wider community would also be accrued through the provision of public open space and a play area on the site, which is not publically accessible at present.
20. In terms of the provision of sustainable drainage, flood alleviation for an off site development and the maintenance of a watercourse along a site boundary, the necessity for these works largely arise from the development of the site itself. Benefits are also described in terms of financial contributions towards various community facilities; however, such contributions are contained within a Section 106 Agreement and are as such agreed by the parties as being necessary to make the development acceptable in planning terms. I also note the letter from the landowners, the Diocese of St Albans (the Diocese) stating that the sale of the Diocese's properties is essential to the mission of the Diocese, in terms of providing income towards the payment of parochial clergy. However, be that as it may, I am not convinced that this constitutes a public benefit to the scheme.
21. Finally, the proposal also includes a scheme to improve North Drive. This road is a shared surface private road owned by the District Council and serves a reasonably high number of dwellings, both on North Drive and linked side roads. The quality of the road was fairly mixed at the time of my visit and the proposal would improve this via the resurfacing of the road and associated works. I note however that there does not appear to be significant public support from local residents for this aspect of the scheme.

22. I have concluded that the proposal would fail to preserve the setting, and result in less than substantial harm to the significance of the Grade II listed Church and the Grade II listed Rectory. I have paid special regard to the desirability of preserving these settings, and note that I am required to give considerable importance and great weight to preserving the setting of such heritage assets. Having considered the range of public benefits provided by the scheme I consider that they attract moderate weight and consequently would not outweigh the clear harm caused. Heritage assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance so that they can be enjoyed for their contribution to the quality of life of existing and future generations. The proposal would be contrary to Policies HA1 and HA7 of the District Plan which together state that development proposals should preserve and where appropriate enhance the historic environment, and that proposals that affect the setting of a Listed Building will only be permitted where the setting of the building is preserved.

#### *Character and appearance*

23. Policy VILL2 of the District Plan states that in High Cross limited infill development will be permitted provided, amongst other criteria, that it relates well to the village in terms of location, is of a scale appropriate to the size of the village, is well designed and in keeping with the character of the village, does not represent the loss of a significant open space or gap important to the form and/or setting of the village, and would not unacceptably block important views or vistas.
24. Despite its lack of public access, the open space of the site contributes to the semi-rural character and appearance of the village; as a fairly large field/paddock in the heart of the village and via the positive effect of the site upon the setting of the Church and the Rectory the site adds to the appearance of the settlement, providing a break in development and enhancing the character of the village. However, its lack of public access or community use and the encircling of much of the site by protected trees restricts the site's role in defining the form of the village, albeit that for the reasons given above I still consider that the site has such a role.
25. However, the design of the proposal with a reasonably sized centrally located area of publically accessible open space would mitigate such an effect such that in my view overall, and notwithstanding the adverse effect that I have found above on the setting of the two nearby heritage assets, the proposal would not have an adverse effect on the character and appearance of the area. Subsequently the scheme would comply with policy VILL2 of the District Plan.

#### *Other Matters*

26. A Section 106 Agreement has been submitted which provides for various community contributions, affordable housing, maintenance of the public open space, the road improvement works and fire hydrants. I have considered the public benefits of the proposed affordable housing and road improvement works above; aside from this as I am dismissing the appeal on other grounds I have not considered this matter further.

## **Conclusion**

27. To summarise, I have concluded that the proposal would harm the setting of nearby listed buildings, and that this harm would not be outweighed by the identified public benefits of the scheme. As such the proposal would conflict with the Framework and the District Plan policies HA1 and HA7. Furthermore, I do not consider that such harm would be outweighed by the financial benefits of the scheme to the Diocese.
28. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*Jon Hockley*

INSPECTOR