



Appeal Decision

Site visit made on 6 June 2025

by **A.Graham BA(hons) MAued IHBC**

an Inspector appointed by the Secretary of State

Decision date: 22 July 2025

Appeal Ref: APP/K2420/W/25/3361470

Land to the corner of The Green and Pipe Lane, Orton-on-the-Hill

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mrs Pauline Rosa Taylor against the decision of Hinckley and Bosworth Borough Council.
 - The application Ref is 24/00284/OUT.
 - The application is for outline planning application for the erection of one self-build/custom build dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issue is the effect of the proposal upon the character and appearance of the area, including the Orton on the Hill Conservation Area and nearby Grade II Listed Buildings of Lower Farm and Church Farm and the Grade I Listed Church of St Edith.

Procedural Matters

3. Since the determination of this application, a revised National Planning Policy Framework (the Framework) was published on 12 December 2024 (updated 7 February 2025) whose main focus has some bearing upon this appeal. The main parties have had an opportunity to comment on the revised Framework. As such, I have determined this appeal in accordance with the revised provisions within the Framework.
4. The application seeks outline planning permission with all matters reserved other than access. As part of the application, indicative plans have been submitted to show a potentially likely arrangement and design of a proposed dwelling along with design parameters that could be used to inform any future self build house. I have considered these indicative plans accordingly.
5. The appellant has submitted a legal agreement in the form of a signed unilateral undertaking dated 27 February 2025 under Section 106 of the Town and Country Planning Act 1990. I have had regard to the legal agreement's provisions in reaching my decision.

Reasons

6. Located within the Orton on the Hill Conservation Area (CA), the site is a gradually sloping grass field and is fringed to its south and easterly edges with rather overgrown and unkempt hedges that appeared to support a variety of different plant species. I saw on my site visit that this hedge was growing upon a banking that marked a distinct change in level between the land of the appeal site itself and the surrounding metalled roads of Pipe Lane and The Green that form a crossroads to the edge of this site where they form an important point of arrival into the village.
7. The associated indicative plans as submitted show a proposed building to this plot that would be a rather sizeable new dwelling with two off set linear ranges orientated towards the south east. These two ranges would appear to be served by a double garage and generous parking area to the north. Access would be taken from the existing driveway that serves modern houses to an adjacent site that the appellant has access over. Gardens would surround the house and the surrounding hedge would be proposed to be retained.
8. In considering this appeal I am required by Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to give special attention to the desirability of preserving or enhancing the character or appearance of the CA. I am also required by Section 66(i) of the same Act to give special regard to the desirability of preserving a listed building or its setting. This site is within the setting of the Grade I Listed Church of St Edith and within the wider setting of the Grade II Listed Church Farmhouse and Lower Farm. Within the CA, there are also buildings identified as unlisted buildings of local historic or architectural importance. These include the nearby Moore's Farm, Home Farm, and the Old Rectory now known as The Gables.
9. The statutory duties within the Act are reflected in the Framework, which states that great weight should be given to the heritage assets' conservation and also illustrates the positive contribution that heritage assets can make to the creation of sustainable and economically viable communities. Policies DM10, DM11 and DM12 of the Site Allocations and Development Management Policies Development Plan Document (2016) (DPD) seek to manage change in the historic environment and ensure good design.
10. The settlement of Orton on the Hill appears to have very old origins pre dating the Domesday Survey and is located within an interesting topographical location. According to the Orton on the Hill Conservation Area Appraisal (2009)(CAA), the village's location is defined by groups of isolated woodland within open countryside within which the largely dispersed settlement is embedded. Although the village is effectively seen as forming two distinct parts, much of the area around the medieval Church of St Edith is defined by areas of open space that are considered important both for their role in maintaining the character of the area as a dispersed village and as the historic core around The Green.
11. This space around The Green was supplemented by surrounding farmsteads that fringed the village and the site of the long demolished manor house. Although many of these historic farmsteads have seen some harmful infilling over recent years, the village is still defined by its landscape dominated setting, the long straight roads that lead into it, and the extensive views over the escarpment to the north.

12. The CAA specifically seeks to protect the areas of remaining open space within the CA as 'key areas' or 'key spaces' due to their role in helping to define this historic character and in providing a tangible reminder of the historic evolution of the village. This perception is well illustrated around the crossroads and point of arrival into the village around Pipe Lane and The Green where the relative absence of buildings to the north of this crossroads is noticeable.
13. The site in question is located within one of the identified 'key areas'. I consider that the importance of this site is not simply due to it being undeveloped, but also due to the narrative such spaces tell of the history of the village. For instance, the site is recognised within the Leicestershire and Rutland Historic Environment Record (HER) as having a high potential of containing medieval and post medieval archaeological remains as well as some potential of earlier Saxon remains indicative of the village centre being more populous or having moved throughout the centuries.
14. This indicates to me that the site may not always have been absent of development, but the fact that it is now absent would suggest some form of clearance or economic misfortune that led to its depopulation. I consider therefore that this site not only contributes in a positive manner to the character and appearance of the CA due to its undeveloped nature currently, but also through it being a tangible reminder of the inevitable mixed fortunes of such an historic place over the many centuries that it has existed.
15. The site also contributes in an important way to the setting of important unlisted buildings nearby including Moore's Farm and Home Farm. These historic farms relate to the more linear part of the village to the north east and demark a noticeable change in character of the area from one of dispersed settlement to one of more nucleated linear form of habitation. The site being important for understanding this delineation between the two areas.
16. The scheme would introduce a largely alien form of development that would fail to respect the qualities of traditional settlement patterns within the village and would rely upon the fringing landscaping to help mitigate its presence. However, even were this hedge to be retained in its current untrimmed form, the change in topography here would ensure that development would be seen from the surrounding streets and from the unlisted buildings nearby.
17. Ultimately, the allegation that this site is simply 'waste' fails to fully appreciate the very important role it has to play in telling the narrative of the village as a whole. As such I find that there would be significant and serious less than substantial harm to the CA were development here to proceed.
18. Coming to the contribution of this site in relation to the Listed Buildings, there are three Listed Buildings within the CA. Church Farmhouse and Lower Farm are two farmsteads within the village. Church Farmhouse consists of late medieval structures including a cruck frame and dates to around the 15/16th centuries. Lower Farm dates to a later 17th century date but maintains a timber framed construction upon a stone plinth. Both the farmsteads are vernacular in character and have strong evidential and historic interest.
19. The Framework makes clear that the setting of a heritage asset is the surroundings in which a heritage asset is experienced and points out that such an extent is not

fixed and may change as the asset and its surroundings evolve. Although not visible directly from Church Farmhouse and Lower Farm, the site does contribute to the historic dispersed nature of the village of which these farms form a core part. In turn, this site affects the wider setting of these Listed Buildings and the historic context within which they sit.

20. Being somewhat removed therefore from Church Farmhouse and Lower Farm, the approaches to these buildings would only be slightly affected but, in a similar way that harm would be sustained to the CA, there would be an impact upon the significance of these Listed Buildings through an erosion of the wider setting within which they sit which is important for understanding of their respective contexts.
21. The Church of St Edith is a key focal point within the village and stands strategically to the escarpment north of this site. The church is of very high significance as it is Grade I Listed and dates to the early 14th century and contains significant monuments within. The steeple of the church was modified in the 1950s but still represents a focal point for the surrounding area and is visible from some distance along the long straight road of Sheepy Lane as it approaches the village from the south east.
22. On arrival into the village the relative absence of development, other than Moore's Farm and other buildings to the south eastern corners, along with the continuation of Sheepy Lane and The Green towards the church gave a strong sense of arrival that was defined by this open and historic landscape setting. I consider this rural approach to be of significance to the setting of the church.
23. Although the church was only fleetingly visible in Spring from this location, in Winter views would be much more prominent. As mentioned above, development of this site would also likely be visible not just were the hedge to be trimmed but also due to the topographical change between the land level of this site and the roads that surround it. In this case, the relative isolation of the church, which is directly connected to the fortunes of the village in the past, would be diluted. This would cause some minor harm to this approach towards the church.
24. Although the plans are indicative only, the likelihood is that any development here would erode both this important approach to the church as well as cause harm to the delicate balance of historic spaces and historic farmsteads within the village through both a harmful domestication of this site as a house and garden and through the physical presence of further development here, some of which would affect views of the church.
25. Although many such plots marked as key areas within the CAA are currently gardens, this does not justify further development and associated domestication of a clearly important and historic site within the village.
26. In summary, I find that there would be less than substantial harm on the lower end of the scale to the setting and approach to the Grade I Listed Church of St Edith through the encroachment of development into this key approach and into views towards it. There would also be some minor harm to the wider setting of Church Farmhouse and Lower Farm through encroachment of further development into their wider setting and approaches.

27. However, I find higher less than substantial harm to the character and appearance of the CA through the introduction of development upon this prominent and important site that would erode the strong narrative and sense of place associated with the village as a whole. In a similar manner, the non-designated heritage assets of Moore's Farm and Home Farm would equally suffer some moderate adverse impact upon their setting.
28. This would conflict with DPD Policies DM10, DM11 and DM12. However, DPD Policy DM11 requires the benefits of the proposal to be weighed against the harms caused. Paragraph 215 of the Framework as it relates to less than substantial harm also requires harm to be weighed against public benefits. This heritage balance is carried out in the next section of this decision.

Planning Balance

29. Turning to the heritage balance first of all, it is necessary to outline the benefits and the harms. There would be less than substantial harm to four designated heritage assets, with the harm ranging from minor harm to the significance and setting of Church Farmhouse and Lower Farm, to harm at the lower end of the less than substantial harm continuum to the Church of St Ediths, and harm at the higher end of the less than substantial harm continuum to the CA and two non-designated heritage assets within it. There would also be conflict with DPD Policies DM10, DM11 and DM12.
30. The proposed development would be for one self build home. This has been secured by means of a signed and dated legal agreement under Section 106 of the Town and Country Planning Act 1990. I note that an interested party has raised several concerns about the legal agreement. These concerns relate to it being a unilateral undertaking and not committing the Council to any involvement in the Marketing Strategy; whether the scheme would meet local needs; and whether the legal agreement should have been accepted at a late stage in the appeal process.
31. However, I have a responsibility to take such a legal agreement into account in reaching my decision. I have considered the legal agreement against the three tests set out in Regulation 122(2) of the Community Infrastructure Level Regulations 2010 and paragraph 58 of the Framework and have noted that the Council has raised no concerns about the legal agreement. I consider that the legal agreement would be necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. As such, the three tests are met.
32. Under the Self-build and Custom Housebuilding Act 2015, local authorities are required to keep a register of those seeking to acquire serviced plots in the area for their own self build and custom house building. They are also subject to duties under the Act to have regard to this and to give enough suitable development permissions to meet the identified demand. The Council have confirmed that they have a shortfall of five such plots at the end of base period 10. The appellant considers that significant weight should be given to this scheme as it provides a self build dwelling type of which the Council currently has a shortfall, in a district which does not presently have a five year supply of housing land. I recognise that this would comply with the Framework's aim of providing housing for the needs of

different groups in the community and supporting small sites for self-build housing, as well as boosting the supply of housing more generally.

33. In terms of public benefits, the proposed development would deliver a single self build house, which would contribute to the Council's recognised shortfall of self build homes in a district with less than five years' housing land supply. This would attract moderate weight due to its contribution to these housing numbers. Additionally, there would be public benefits of employing local tradespeople in the building's construction and the benefits of enabling smaller scale housebuilding. These benefits would attract moderate weight but are ultimately not sufficient to outweigh the harm identified to the significance and setting of four designated heritage assets. The heritage balance has not therefore been passed.
34. Moving onto the overall planning balance, as of 1 April 2024 the Council could demonstrate a 5.26 years supply of housing. However, this figure was based upon their old Local Plan Target of 433 dwellings per year and has since been superseded. The Council expects that they will be unable to demonstrate a five year supply following the publication of their most recent Five Year Housing Land Supply Statement which is yet to be finalised. Although it is unlikely that the Council will have a five year supply, I have no evidence before me as to what the potential shortfall will be. However, even were this shortfall to be great, both parties agree that a single new dwelling as proposed would contribute in only a limited way.
35. Despite this the lack of housing land supply indicates that paragraph 11 d) of the Framework applies and the policies which are most important for determining the application are out-of-date with regard to NPPF footnote 8. With regard to paragraph 11 d) i) of the Framework on the application of policies in the Framework that protect areas or assets of particular importance, footnote 7 supporting paragraph 11 d) i) refers to designated heritage assets. Given my findings, this therefore provides a strong reason for refusing the development proposed. Therefore, the presumption of sustainable development does not apply.
36. Despite the proposed development's merits and its modest contribution to a likely shortfall in housing supply, the benefits do not clearly outweigh the harms and the conflict with the development plan and national policy in the Framework with regard to the totality of harm. In conclusion, the proposal would conflict with DPD Policies DM10, DM11 and DM12 and Section 16 of the Framework as outlined above.

Conclusion

37. For the reasons given above, and taking into account all other matters raised, I dismiss the appeal.

A Graham

INSPECTOR