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## Appeal Decision

Site visit made on 24 January 2017

**by A Jordan BA Hons MRTPI**

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

**Decision date: 23 February 2017**

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**Appeal Ref: APP/Z2505/W/16/3160109**

**Land off Clampgate Road, Fishtoft, Boston, Lincolnshire, PE21 0SB**

- 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 Mr Mark Williams against the decision of Boston Borough Council.
  - The application Ref B/15/0404, dated 22 September 2015, was refused by notice dated 24 March 2016.
  - The development proposed is creation of 29 no. residential dwellings with detailed consideration of access and layout.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The application is made in outline form and seeks approval for details of access and layout. Details of appearance, landscaping and scale are reserved for later approval. A revised plan was submitted during the course of the application showing a layout with 29 dwellings and the description of development was altered to reflect this. As this was the basis on which the application was determined I have also adopted this description.
3. The appeal is accompanied by an unsigned S106 agreement which seeks to provide a financial sum of £102.674 toward the provision of education in the village, and the provision of affordable housing.
4. The site lies close to St Guthlacs Church, which is a Grade I listed building. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that in considering whether to grant planning permission for development which affects a listed building or its setting, the decision maker shall have special regard to the desirability of preserving the building or its setting, or any features of special architectural or historic interest which it possesses.

### Main Issues

5. Accordingly the main issues for the appeal are:
    - Whether the proposal would conflict with policies for residential development which seek to achieve a sustainable pattern of development;
    - The effect of the proposal on the character and appearance of the area;
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- Whether the proposal would preserve the setting of the nearby Grade I listed St Guthlacs Church;
- And the effect of the proposal on the archaeological interest of the site.

## Reasons

### *Background*

6. The Council has put forward policies from the *Boston Borough Local Plan 1999*, which predates the *National Planning Policy Framework*. The parties agree that the Borough does not currently have a 5 year supply of housing land. As such, paragraph 49 of the Framework is engaged and relevant policies for the supply of housing must be considered out-of-date. Paragraph 14 of the Framework advises that where the development plan is out-of-date permission should be granted, unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, or, specific policies in the Framework indicate development should be restricted. These include policies which relate to designated heritage assets.
7. Policy CO1 of the Local Plan seeks to resist development in the countryside. Although the Framework does not refer to settlement boundaries it does seek to recognise the character and beauty of the countryside and to avoid isolated new dwellings within it. Policy G2 of the Local Plan seeks to resist development which would have an adverse effect on the existing landscape and Policy G1 seeks development which does not harm the general character of the area because of its scale, density, layout or appearance. These aims are consistent with guidance in the Framework, which seeks development which through high quality design improves the character and quality of an area and the way it functions.
8. All of these policies could affect the supply of housing and so are out-of-date as a result of housing land supply issues. They also predate the guidance in the Framework. Nonetheless, they are consistent with guidance within it and still carry some weight in the planning balance.
9. Both parties have referred to the consultation draft of the *South East Lincolnshire Local Plan* which proposes Fishtoft as a Minor Service Centre, where development will be permitted within settlement boundaries that supports their role as service centre. However, the plan is at a very early stage and I have no indication of whether the sites and strategy put forward within it are likely to come forward in their current form. This limits the weight I attribute to the policies within the emerging plan.

### *Sustainable Location*

10. The Council has expressed concerns that the proposal would be contrary to the aims of sustainable development implicit in the Framework, which seek to avoid a pattern of development which leads to reliance on the private car. The appeal site is an open field on the edge of Fishtoft. The village has limited local services, with a church, a pub and a school within walking distance in the village. Although a half hourly bus service runs during the day to Boston, where shops and other community services would be available, this runs from 9.00am until 4.00pm and so would not serve the needs of most people travelling to and from work. It is therefore likely that most future residents of

the development would be dependent upon the private car to access work and most services.

11. I take into account that car trips from the site to Boston would be relatively short by rural standards. I also take into account that the flat terrain would be attractive for those seeking to travel by bike. Nevertheless, having regard to the number of dwellings proposed and the distance to most local services, it would contribute to a pattern of development where residents would be largely reliant upon the private car and would fail to reduce the need to travel. The proposal would allow new residents to provide some support for local services, however, as such services are relatively limited this reduces the weight I attribute to this as a benefit.
12. Accordingly on the first matter I conclude that the proposal would fail to comply with guidance within paragraphs 37 of the Framework which seek to achieve a sustainable pattern of development. This weighs against the proposal in the planning balance.

#### *Character and Appearance*

13. The appeal site lies on the edge of the village. It is a flat field which is open to the road and which forms part of the largely uninterrupted open fieldscape between Fishtoft and Freiston. The field lies opposite modern residential development along St Guthlac's Way. Church View and The Gables on Burton Croft Road are individual dwellings which also sit close to the site within open fieldscape. Due to the flat topography, built form is not easily assimilated into the landscape, and existing residential development contrasts sharply with the surrounding countryside. I noted on site that in views across open land from the north, the hard edge of St Guthlacs Way was starkly visible. Similarly, in views across from Wythes Lane properties on the edge of Fishtoft to the north-east were notable features across the fieldscape.
14. The proposed development would extend the built envelope of the village further into open countryside. Insofar as the proposal would extend built form into a currently undeveloped fieldscape, it would erode the open character of the countryside in this location, and this would lead to some harm to the character and appearance of the area. It therefore follows that the proposal would be contrary to policies CO1, G1 and G2 of the Local Plan and with guidance in the Framework, which similarly seeks to recognise the character and quality of the countryside. However, taking into account the visual effect of existing development in the landscape, I attribute only some moderate weight to this harm in the planning balance.

#### *Impact on the Setting of the Listed Building*

15. St Guthlacs Church is a Grade I listed building, parts of which date from the 12th Century. It sits adjacent to the site and views of the church and churchyard are available across the open field and on the approach along Clamptgate Lane and Burton Croft Road. It is an attractive example of a building of its type and its significance lies in its status as a well preserved example of ecclesiastical architecture of its period.
16. The building sits in a well established churchyard which provides an open setting in which the building can be appreciated. It is enclosed in part by the churchyard wall, and is ringed with mature trees. Mid-range views of the

building when the trees are in leaf allow only views of the upper sections of the building, although some of its most striking features, namely the 15<sup>th</sup> Century 3 stage tower at its western end and the clerestory windows along the nave, are notable features in views across the appeal site. The church tower remains visible as a marker in longer range views across the flat landscape. The churchyard and the trees around it, when viewed along with the open field of the appeal site in the foreground provide a glimpse of what would have been the historic rural setting of the building, which is now much eroded by modern housing on three sides. I therefore consider that the appeal site forms an important part of the wider setting of the Listed Building.

17. The proposed development comprises 29 houses laid out in a relatively dense formation. The scheme includes an area of public open space at the south west corner at the junction of Burton Croft Road and Clampgate Road which lies directly opposite the church. This would enable views of the church from the Burton Croft Road to be kept open. Similarly, a vista from Wythes Lane across the site, along the line of the internal access road, would allow channelled views of the church from within the development. Nevertheless, the introduction of a suburban housing layout on the remainder of the site would sever the church from its rural setting. This would be apparent in mid and longer range views of the church from points to the north. I note that when in leaf much of the church building is obscured. Nevertheless, the tower and the churchyard are evident from some distance away and the quality of these views would be diminished by the replacement of the existing pastoral foreground with modern housing development.
18. I take into account that the existing view across the field to the church is only one attribute of the church's setting, and that other recent residential development, has altered existing views of the asset. Nevertheless, in that there are limited views available of the church which encompass its historic rural setting, and that the proposal would diminish the quality of that view, it follows that the proposal would lead to harm to the setting of the listed building.
19. The Council has also raised concerns regarding the effects of the proposal on the setting of the Grade II Listed wall which lies along part of the boundary to the churchyard. As the significance of the wall is largely derived from the visual contribution it makes to the churchyard and the setting of the church I do not consider that the development would lead to any specific harm to the setting of the wall, other than that already identified above.
20. The Framework advises that the significance of a heritage asset can be harmed as a result of development within its setting. Having regard to the extent of harm identified above, the proposal would not preserve the special interest or setting of St Guthlacs Church, and would conflict with guidance within the Framework which seeks to conserve heritage assets in a manner appropriate to their significance. The harm identified would amount to "less than substantial harm" which the Framework advises must be weighed against the public benefits of the scheme.
21. The proposal would provide 29 dwellings of which 12 would be affordable. Having regard to the current supply of housing in the borough this matter must carry substantial weight. The proposal would also provide an area of public open space and some limited economic benefits would arise during construction

and occupation. Accordingly I also attribute these limited weight as public benefits.

22. However, heritage assets are an irreplaceable resource and the Framework is clear that in considering the impact of development on the significance of heritage assets, great weight should be given to the asset's conservation. I take into account that St Guthlac's Church is a Grade I listed building, and that part of its significance is derived from what remains of its pastoral setting. Consequently, notwithstanding the substantial public benefits of the scheme, these would be insufficient to outweigh the harm the proposal would cause to the setting of the listed building, and its significance as a heritage asset. I therefore conclude the proposal would fail to comply with national policy outlined in the Framework.

#### *Impact on the Archaeological Interest of the Site*

23. As part of the application the appellant submitted an archaeological assessment which found that the site had the potential to contain archaeological remains. The Council's Heritage Officer has advised that the site has the potential for Saxon and Medieval remains. The presence of Saxon remains was found nearby on Saxon Close and Medieval remains found within 15m of the site. Other historic sources suggest the presence of a medieval mansion in or around the appeal site. A geophysical survey of the site with a magnetometer<sup>1</sup> found a series of ditches, several possible pits and 2 potential buildings within the site. The survey acknowledges that these are most likely to be medieval. However the presence of Saxon and Bronze Age remains within a short distance of the site also suggests that they could predate the medieval period.
24. The Council is of the view that further evaluation in the form of trial pits is necessary before the application is determined. The appellant has suggested that a condition for such works to be carried out before development commences on site would be a suitable means of ensuring this evaluation takes place and would enable any mitigation to be carried out. I am also mindful of guidance within *Planning Practice Guidance* which suggests that only a very small proportion of sites will require detailed assessment. However, on the basis of the information before me it is not possible to determine the character or extent of the remains, or to assess their importance. I am therefore unable to determine their level of significance, or to consider what form of mitigation may be most appropriate for the site.
25. I also bear in mind that the application seeks approval of layout. This includes residential dwellings on and around areas identified within the submitted survey as being of archaeological interest. To proceed in this case without full knowledge of the archaeological importance of the site would run the risk of predetermining the form of mitigation that could take place. This would run contrary to guidance within the Framework which seeks to ensure that the significance of a non-designated heritage asset is taken into account in determining planning applications.
26. On the fourth matter I therefore conclude that taking into account the potential antiquity of the remains, to require further evaluation would be proportionate to the potential archaeological importance of the site and in the absence of this information to proceed with the proposal would conflict with guidance within

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<sup>1</sup> Geophysical survey carried out by Archaeological Project Services and submitted December 2015

the Framework which seeks to conserve heritage assets in a manner appropriate to their significance. This weighs against the proposal in the planning balance.

#### *Other Matters*

27. The proposal would provide 29 houses which would contribute to housing supply. The parties concur that there is no 5 year supply of housing land in the district. The application is supported by a S106 which seeks to secure the 12 affordable units. The Council has indicated that the proportion of affordable housing is appropriate and that the proposed mix could be revised to reflect the advice of the Local Housing Provider. Although the S106 is unsigned I am advised that if the scheme was to be allowed a signed copy could be provided on request. Therefore, in the interests of expediency I have taken the affordable units into account in the planning balance as a benefit of the scheme. The contribution the proposal would make to housing supply is therefore a matter to which I attribute substantial weight.
28. A number of residents have raised concerns regarding drainage. The scheme proposes the use of Sustainable Drainage Systems with the use of an open balancing pond to the rear of the site. As neither the Internal Drainage Board or the Environment Agency have objected to the scheme the Council appear satisfied that subject to conditions including the setting of minimum floor levels, the site can be adequately drained and does not raise any issues of flood risk, including any concerns in relation to the sequential test. Therefore although the site lies within Flood Zone 3a, in the absence of any evidence to the contrary from the Council or any other statutory body, I have no reason to dispute this view, and this matter does not weigh against the proposal.
29. The effect of the proposal on the living conditions of local residents was a concern of some parties. The bungalow known as Church View lies closest to the proposed development. The layout shows the proposed plot 2 as sitting very close to the adjoining property's side elevation. I note that the Council has not raised any concerns in relation to this, stating that this matter could be resolved at reserved matters stage. However, the layout is a matter for which approval is sought and so one which I am obliged to consider.
30. Church View is currently enclosed by an established hedge. Although the property sits very close to the hedge, the adjoining open field will contribute to a pleasant outlook. The proximity of the proposed development would be likely to significantly alter the outlook currently enjoyed by residents of Church View which has a number of windows to the side and rear. Taking into account the distance to the proposed plot 2 and the garage to plot 3, it is likely that the open aspect which the bungalow currently enjoys will be largely lost. In this regard the proposed layout would result in an unneighbourly juxtaposition of dwellings which would diminish the outlook currently enjoyed by occupiers to a harmful degree. This matter weighs against the proposal in the planning balance.
31. A number of residents have raised concerns relating to the loss of agricultural land. The site is considered to be Grade 1 agricultural land. I am advised that site has not been actively farmed for some time and that agents have found the land difficult to let. Although I note that the field is relatively small by modern standards I find no convincing evidence that its shape renders it

unsuitable for modern farm machinery. Taking into account the quality of the land its loss from agricultural production is a negative factor which weighs against the proposal, although the relatively small size of the site, at 1.75ha reduces the weight that I attribute to this in the planning balance.

32. I note the comments of local residents in relation to the effects of the proposal on local traffic. However, whilst I acknowledge that there would be an increase in vehicular movements associated with the development, I concur with the views of the highways authority, that these would be unlikely to be detrimental to highway safety. I also take account of the views of residents in relation to the effects of the proposal on local wildlife. I have no compelling evidence that the proposal would be likely to be harmful in this regard and this matter also does not add to my concerns.

### **Conclusion**

33. Paragraph 14 of the Framework advises that where the development plan is out-of-date permission should be granted, unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, or, specific policies in the Framework indicate development should be restricted. These include policies which relate to designated heritage assets.
34. The effects of the proposal on the setting of St Guthlacs Church, which is a Grade I listed building, is a material consideration in this case and a matter on which I have found significant harm. Therefore, notwithstanding the substantial weight I attribute to housing supply, as I have found that the proposal would conflict with policies in the Framework aimed at conserving heritage assets so that they can be enjoyed for their contribution to the quality of life of this and future generations, I find no conflict with the presumption in favour of sustainable development expressed in paragraph 14.
35. The contribution the proposal would make to housing provision, including affordable housing, the provision of open space and the limited economic benefits in relation to supporting local services weigh in favour of the proposal. Assuming the S106 was signed, the provision of an education contribution would be intended to meet the effects of the proposal and so is a neutral factor in the planning balance. However, the harm that would arise to the setting of the listed church is sufficient on its own to outweigh the identified benefits. I add to this the potential for harm to undesignated heritage assets, the moderate harm that would arise to the character of the countryside in this location, the harm that would arise as a result of further reliance of future residents on the private car and the harm to the outlook of occupiers of Church View. Together these matters further tip the balance against the proposal. The development cannot therefore be considered a sustainable form of development.
36. Accordingly, for the reasons outlined above, and having regard to all other matters raised, the appeal is dismissed.

*Anne Jordan*

INSPECTOR