
Appeal Decision

Site visit made on 28 March 2017

by Mrs Zoë Hill BA(Hons) Dip Bldg Cons(RICS) MRTPI IHBC

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

Decision date: 31 May 2017

Appeal Ref: APP/N2535/W/16/3164389

Land at The Spinney, Main Drive, Sudbrooke, Lincoln LN2 2QY

- 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 Mrs Picken against the decision of West Lindsey District Council.
 - The application Ref: 134775, dated 27 July 2016, was refused by notice dated 5 October 2016.
 - The development proposed is a dwelling and detached garage.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this case are:
 - (a) The effect of the proposed development on the character and appearance of the surrounding area;
 - (b) The effect of the proposed development on trees protected by the Tree Preservation (Sudbrooke Park) Order 1950; and,
 - (c) Whether or not the site is acceptable in principle for the development proposed, including having regard to the site's accessibility.

Reasons

Preliminary Matter – recent planning permission

3. The appeal site currently forms part of the garden of The Spinney and has some cattery buildings on the rear part of the land. Planning permission has recently been granted for the reinstatement of a cattery business, including the erection of 2no. wooden structures (8 February 2017 Ref: 135650) on the appeal site.
 4. The appeal proposal application details explain the intention is for a relative (the daughter) of the appellant to move to the site to live in the proposed dwelling and to run the cattery business. I have therefore considered the proposed dwelling and garage in light of the cattery permission on part of the appeal site. I will return to this matter later.
 5. On 24 April 2017, during the appeal process the Council adopted a new policy document titled the Central Lincolnshire Local Plan (CLLP). In so doing the policies of the West Lindsey Local Plan First Review (2006) were superseded
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and they no longer carry weight as policy. As a consequence, the Council has confirmed which policies of the new Local CLLP they rely upon. The appellant has been given an opportunity to comment upon that correspondence. I note that I have to determine the appeal upon the policies which are in force at the time of my Decision.

Character and Appearance

6. The Spinney and a number of other houses are located on the west side of Main Drive, a private access road. Those properties vary in size, height and design. However, a key feature of those properties is that they are situated in spacious grounds with a good degree of either on-site or backdrop planting including mature trees.
7. In the case of the appeal site, much of the area is open with substantial trees at both the rear and northern side of the plot (i.e. away from the host property The Spinney). A conifer hedge transects the site separating the cattery use from a front lawn area. This hedge would be removed as part of the proposals.
8. It is accepted by the Council that the proposed development would not harm the host or neighbouring properties in terms of privacy and light. Moreover reasonable space would exist, even with the cattery business, for day to day needs of the future occupiers. However, the width of the proposed bungalow and the position of the garage would be such that the building development would appear to fill the whole plot width. This combined with the siting and footprint of the existing bungalow and its detached garage would result in a significantly more urban appearance, which would be exacerbated by the closer proximity of the proposed house and garage buildings to Main Drive than the existing bungalow and its garage. In all, this scheme, despite the simple and elegant architectural approach, would have an unacceptable urbanising effect which would be out of keeping with the low density and more rural setting to this parkland area.
9. As such, I find conflict with policy LP26 of the CLLP which requires that new development must achieve high quality design that contributes positively to local character and creates a sense of place. It sets out a series of criteria against which development proposals will be assessed. These include that development relates well to the site and surroundings, particularly in relation to siting, scale, massing and plot widths. The proposal fails in this respect. For these reasons, I also find conflict with the National Planning Policy Framework (the Framework), which requires good design.

Trees

10. The appellant confirms that the trees shown on the application plan have their root protection areas (RPA) accurately identified. On this basis, and having in mind the Tree and Landscape Officer's comments that if the circles on the plans are the RPAs they would not object to the scheme, the trees on the boundaries of the site would be sufficiently distant that the proposed dwelling and the access to it would not harm them. Given the size of the remaining garden area and the position of the boundary trees to the north of the garden, it seems to me that there would be little pressure to have the trees removed due to issues of light. Thus, I am satisfied that the appeal scheme would not result in harm to the TPO trees subject to a condition to ensure that working practices during construction would be suitably controlled.

11. As such, I do not find conflict with CLLP policy LP17 which seeks to maintain natural site features, including trees, which make a valued contribution to the character of the area.

Principle of Development and Accessibility

12. The Council relies on the CLLP allocations to explain that there is a 5 year housing land supply available. There is no substantiated evidence before me to counter that view. I shall, therefore, not consider this matter further given the recent date of the CLLP which makes provision for its housing requirement.
13. The CLLP for this area allocates Sudbrooke as a medium village (category 5) under Policy LP2 with scope for limited development (classed by the policy as typically up to 9 dwellings or 0.25 ha) to support its facilities. Policy LP4 explains it will permit growth of up to 10% during the plan period for this type of settlement. However, in Sudbrooke there is a planning permission for up to 130 dwellings and 25 apartments for retired living which was allowed on appeal¹. These 155 dwellings exceed the 68 dwellings that the Council considers would amount to the 10% growth addition permitted in the CLLP.
14. Policy LP4 sets out that for proposals within or on the edge of a village in categories 5-6 of the settlement hierarchy where any development combined with extant permissions, amongst other things, exceeds that 10% figure, the proposal should be accompanied by demonstrable evidence of clear local community support for the scheme. The policy provides a definition which explains that this evidence should be provided at the application stage and explains how it is to be gathered and considered. Should the evidence not be clear, Parish or Town Council support will be required.
15. The appeal scheme has resulted in a letter of support from the West Lindsey Ward Member for Sudbrooke, no objection from the Parish Council and two further letters of support and a letter of objection. On balance, and bearing in mind the date of this application in respect of the date of adoption of the CLLP with its community support requirement in settlements where the 10% addition has been exceeded by an extant permission, it seems to me likely that this proposal could satisfy the requirements of policy LP4. However, in this case the principle of the proposed development is not the determinative matter for reasons set out above and noting my conclusions below. Thus, in respect of this proposal I have not attached material weight against the scheme on the basis of policy LP4, rather it seems likely that the scheme might well be able to comply in this respect, with the issue being one of timing in seeking the necessary support.
16. Turning to the specific matter of accessibility raised by the Council, the settlement has a modest range of facilities including a village hall and café (the shop has recently closed) and the appeal site is reasonably close to a bus stop providing access to Lincoln which is a few miles away. I agree with the Council that there is a likelihood that future occupiers would have some reliance on a private vehicle because of the limited facilities. However, bearing in mind the settlement's status and the facilities which are available along with the proximity to the bus stop, on balance, I consider this to be of limited weight in the planning balance. This is particularly the case given the CLLP development

¹ APP/N2535/W/16/3144855

hierarchy policies and particularly LP2 and LP4 which indicate the acceptability (or otherwise) in principle for development.

Other Material Considerations

17. The appeal site is accessed via a private drive through gates which are Listed Buildings and past a Lodge House, also a listed building. I am satisfied that the proposed development would be sufficiently separate from those Listed Buildings that the appeal scheme would not adversely affect their significance. Additional access by vehicles to the property would not alter the gateway's sense of arrival or diminish the function of those Listed Buildings. Thus, as the setting and significance of those buildings would be preserved I do not consider that the relationship to those Listed Buildings counts against this scheme.
18. The Definitive Map and Statement shows Definitive Footpath (Sudbrooke) No.160 adjoining the site and forming the principal access to the proposed development. The Rights of Way Officer sets out that there are no recorded public vehicular rights to access the site. Therefore the appellant would need to satisfy herself of the existence of an equivalent private right of way and, in the event of reliance being placed on the applicant's ownership of Main Drive, then a private vehicular right should be conveyed before the intended property is sold. This is therefore a civil law matter and has not been a material consideration in my determination of this appeal.
19. In terms of the reinstatement of the cattery business, the relationship between the proposal and that permission would require further consideration were I to allow the appeal scheme. However, this has not weighed in the balance because I am satisfied that this could be resolved through conditions.
20. The appellant has explained that her daughter, and her family, is needed to run the cattery business. Although the cattery business could be run from the existing house on the site, such that this matter does not attract significant weight in terms of the needs of the business, those personal circumstances might gain the support required by policy LP4.

Planning Balance and Conclusions

21. The size and positioning of the proposed development would harm the character and appearance of the area and conflict with development plan policies as well as policies of the Framework. Whilst it is possible that the development might gain the community support needed by policy LP4 because the development threshold has been exceeded for Sudbrooke, the harm to character and appearance is such that, for the reasons set out above, and having had regard to all other matters raised including the personal circumstances relating to the cattery business, the appeal fails.

Zoë Hill

Inspector