



Appeal Decision

Site visit made on 16 November 2017

by D Guiver LLB(Hons) Solicitor

an Inspector appointed by the Secretary of State

Decision date: 19 February 2018

Appeal Ref: APP/D2510/W/17/3181274

Land off Tothby Lane, Alford LN13 0EP

- 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 J Howe against the decision of East Lindsey District Council.
 - The application Ref N/003/00644/17, dated 6 April 2017, was refused by notice dated 6 June 2017.
 - The development proposed is the erection of 7 no. dwellings (with means of access and layout to be considered).
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 7 no. dwellings (with means of access and layout to be considered) on land off Tothby Lane, Alford LN13 0EP in accordance with the terms of the application, Ref N/003/00644/17, dated 6 April 2017, subject to the conditions in the attached Schedule.

Preliminary Matters

2. I have adopted the Council's descriptions of the appeal site and the proposed development as these are more precise.
3. The application is made in outline with all matters except access and layout reserved for future consideration. Drawings showing the proposed site layout and access were submitted with the application and I have had regard to these in determining this appeal.

Main Issues

4. The main issues are:
 - The effect of the proposal on the character and appearance of the area;
 - the effect of the proposed development on the setting of Tothby Manor which is listed at grade II; and
 - whether the proposal would use the best and most versatile agricultural land.

Reasons

Character and Appearance

5. The appeal site is a roughly rectangular plot sitting to the north-east of the town of Alford and comprising greenfield agricultural land. The site is outside

the settlement limits defined in the East Lindsey Local Plan Alteration 1999 (saved policies) and therefore in planning policy terms it is located in open countryside. It is approximately 150 metres wide from east to west and 35 metres or so deep from north to south. The main access to the site is from Tothby Lane, which is a narrow road running parallel to the southern boundary of the site, with access off Tothby Manor Drive for the plot of one of the proposed dwellings.

6. The southern boundary is delineated by an approximately two-metre high hedge and there is an attractive mature tree approximately 40 metres from the eastern edge of the site. The western boundary is marked by a mature hedge and a small copse of trees to the west of a five-bar wooden gate. The eastern boundary runs close to an existing footpath and Tothby Manor Road, which is lined with recently planted trees. To the north of the site lies open farmland and Tothby Manor.
7. The appeal site is within the Holton le Clay to Great Steeping Middle Marsh Landscape Character Area (LCA). North of Tothby Lane, the land is relatively flat but beyond the appeal site it eventually gives way to low undulating hills. South of the appeal site lies Tothby Close, which is accessed off Tothby Lane and is a modern development of relatively large detached dwellings. The LCA is assessed as a distinctive and tranquil landscape with very few detractors, with overall landscape sensitivity classified as moderate to high. The Council considers that the appeal site is located in an intact example of the character type with a high sensitivity to change.
8. The Council identifies persons using local footpaths and the occupants of the houses in Tothby Close with windows overlooking the site as high sensitivity receptors of any change. There is no suggestion that the proposal would have any otherwise adverse impact on the living conditions of the occupiers of the dwellings in Tothby Close. Persons using the footpath along Tothby Lane would find their view to the north restricted by the proposed development but to a large extent this would be limited by the existing hedge which the layout plan shows would be retained across roughly the eastern half of the site boundary, but with final landscaping details to be determined. The proposed gaps between the buildings would provide scope for views of the countryside beyond. From the footpath to the east of the site the view north and west would be unobstructed. To the south the scene would be the appeal site whereas the existing view is towards the modern development in Tothby Close.
9. In an earlier appeal decision¹ on this site, and land beyond it, the Inspector concluded that the proposal would protrude into the open countryside beyond Tothby Lane and would be visually prominent from the lane and the footpath to the east of the site. However, that proposal was for up to 51 dwellings on a site considerably larger than the appeal site for the current scheme. The site of the earlier proposal followed a similar southern boundary but the northern boundary was 150 metres or so north of Tothby Lane. I consider that given the narrow depth of the site and the layout, showing dwellings largely parallel to Tothby Lane, this proposed development would not protrude into the countryside to a harmful degree.
10. Moreover, the wide gaps proposed between the buildings would allow the countryside to be viewed through the development, which would not have been

¹ APP/D2510/W/16/3153226

possible with the earlier proposal for 51 houses. As such the scheme before me would not appear unduly prominent. The LCA recognises a broad spectrum of sensitivity to change and I consider that the sensitivity would be likely to increase the further a development extended into the LCA. Given small scale of the proposed development, its context close to existing built development that already intrudes into views from the east, and the narrow depth of the site, the proposal would result in a limited degree of change to the landscape. Overall I find that the proposal would respect the character and appearance of the area.

11. Therefore, I conclude that the proposed development would accord with Policies A4, A5 and H12 of the Local Plan, which together seek to ensure that developments reflect and protect the character and appearance of the area in which they are situated. The appeal site is outside the Alford settlement boundary and so the proposal would conflict with Policy A3 of the Local Plan which defines the East Lindsey settlement hierarchy and seeks to direct development to areas within settlements. That said the proposal is close to existing built development and close to the village's services, which I will consider in more detail below.

Setting of Grade II Listed Building

12. Tothby Manor is a Grade II listed farmhouse built in the 17th century. It lies approximately 400 metres north of Tothby Lane and is adjacent to a number of significantly larger agricultural buildings and appears to be part of a working farm. The appeal site is currently in agricultural use and is therefore functionally connected with Tothby Manor. It seems that an earlier manor house existed in this area (known as the 'lost' hamlet of Tothby) and was surrounded by a moat. The moat remains in part as a pond connected to a stream. This association between the current Tothby Manor and the previous one is set out in the list description. Its significance is derived from its earlier origins and links with the nearby agricultural land.
13. Tothby Manor and associated farm buildings are visible from Tothby Lane through gaps in the hedge at the southern boundary of the appeal site and from the footpath to the east of the site. I am mindful of the requirement under paragraph 131 of the Framework to take account of the desirability of sustaining and enhancing the significance of heritage assets.
14. In the earlier decision¹ the Inspector concluded that the appeal site subject to that decision was part of Tothby Manor's setting and that there would be less than substantial harm to the setting of the Grade II listed Tothby Manor. This significantly smaller scheme, on a much smaller site, would provide a narrow belt of houses that would sit 350 metres or so south of Tothby Manor. As such, I find that the proposal would have a neutral effect on the setting of Tothby Manor and accord with Policy C2 of the Local Plan which seeks to ensure that developments preserve or enhance the historical significance of heritage assets. Importantly the development would not affect one's ability to appreciate the heritage asset or its relationship with the wider farming landscape.

Whether the site is best and most versatile land

15. Paragraph 112 of the Framework requires decision-makers to take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, preference should be given to using areas of poorer quality over

higher quality land. The land in the vicinity of Alford, including the appeal site, is generally in Class 3, moderate to good arable land², with some Class 2, very good arable land, to the east.

16. However, it is questionable whether the proposal would constitute significant development given the number of houses to be built and the narrow depth of the site. The proposed development would use a portion of a larger field. Because there is no alternative agricultural land of poorer quality available for development to meet the suggested need for new dwellings, and because the proposal would not amount to a significant development, I conclude that the scheme would be in accordance with paragraph 112 of the Framework.

Accessibility

17. Alford provides a wide range of services, including shops and educational and medical facilities. Policy A3 of the East Lindsey Local Plan Alteration 1999 (the Local Plan) defines the district settlement hierarchy and specifically identifies Alford as being a centre for growth and a service centre for a number of small and medium-sized villages in the surrounding area. Alford has good public transport links within walking distance and the nearest bus stop is approximately 300 metres away, which would be reasonably accessible to future residents of the appeal site. Additional bus stops giving access to more numerous routes and more regular services are within 700 metres or so of the appeal site, which is also a reasonable walking distance. I therefore consider that the site would be a sustainable location in terms of transport and access to services. I, like the previous Inspector, find that the site would provide reasonable access to Alford's services without residents necessarily relying on private cars.

Other Matters

18. Interested parties have raised highway safety concerns and the impact on wildlife that would arise from the proposed development. Highway safety concerns referred to the narrowness and current state of repair of Tothby Lane and the roughly right-hand bends east and west of the proposed site entrance. I did not observe any significant narrowing of the road on my site visit and note that the proposed main access is close to the existing access to Tothby Close. The westernmost bend is 200 metres or so away and the proposed access close to the easternmost bend is already used by the occupants of Gate Cottages and Tothby Manor and has clear views both west and south. I also note that the road to the front of the site is subject to a 30 mph speed limit. For these reasons I consider that the proposal would not have a detrimental impact on highway safety and I note that the highway authority reached a similar conclusion. The condition of the road surface is not a planning issue but is a matter for the highway authority.
19. An ecology and protected species report considered the impact on wildlife and concluded that the appeal site was largely of low ecological value with the exception of the beech tree (which is to be retained) and the hedges. The Council concurred and suggested that measures to protect biodiversity that might be on the site could be secured by way of conditions, either at outline or detail stage. There is nothing in the evidence that lead me to reach a different conclusion.

² East Midlands Region Agricultural Land Classification (Natural England) map ALC005

Planning Balance and Conclusion

20. The proposed development would deliver seven new dwellings, which would make a modest contribution to the Council's supply of housing land. There is a dispute between the parties about whether the Council have a 5 year supply of housing land. What is clear is that it is unlikely that the emerging Draft Alford Neighbourhood Plan will allocate sufficient sites to meet the housing target set in the emerging local plan for Alford. I realise that the local plan has not yet been adopted but it given the stage it has reached attracts significant weight. This site would, along with future allocated sites contribute to meeting the likely housing need in Alford. This is a benefit of the scheme that weighs in its favour. The ready access to services within Alford satisfies the requirements of sustainable development.
21. The location of the appeal site is contrary to Policy A3 but the proposal complies with the overall aims of the Local Plan in terms of the impact of the proposal in respect of the use of the land, the impact on character and appearance and the setting of the listed building at Tothby Manor. To summarise, the contribution to overall housing land supply and the housing target for Alford are material considerations which, taken together with compliance with other Local Plan Policies, outweigh the conflict with Policy A3. Accordingly, for the reasons given, and taking into account all other matters raised, the appeal should succeed.

Conditions

22. The conditions set out in the accompanying schedule are based on those suggested by the Council. Where necessary I have amended the wording of these in the interests of precision and clarity in order to comply with the advice in the Planning Practice Guidance.
23. In the interests of proper planning I have imposed the standard conditions in respect of time limits. For certainty I have imposed a condition requiring compliance with the approved plan.
24. To ensure compliance with the Local Plan Policies relating to the construction standards of any access to a development and to prevent flooding and pollution problems I have imposed conditions relating to engineering and drainage works. Site investigations have revealed the presence of archaeological remains and I have therefore imposed a condition relating to a Scheme of Investigation. To ensure the free flow of traffic I have imposed a condition relating to the parking of vehicles on Tothby Lane. To ensure the amenity of neighbours is not unnecessarily disrupted I have imposed a condition limiting the hours of work on the site.
25. I have not imposed a condition relating to the retention of hedges and trees other than the mature tree to the south of plot 2 on the approved plan because boundary treatments fall within landscaping and are a reserved matter. To protect the roots of the tree to the south of plot 2 I have imposed a condition relating to the location of the footpath. The removal of any length of the hedge or any trees for the purposes of access can be addressed in the details of the access works to be agreed.

D Guiver

INSPECTOR

Schedule

- 1) Details of the scale, appearance and landscaping, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plan: drawing no A/3107-01 Revision B.
- 5) No development shall take place until details of the standards to which the access from Tothby Lane, the public footpath and access from Tothby Manor Drive are to be constructed; including the removal of any trees or hedges shall have been submitted to and approved in writing by the local planning authority. No dwelling shall be occupied until the access points have been constructed in accordance with the approved details.
- 6) Development shall not commence until drainage works for foul and surface water shall have been carried out in accordance with details which shall have been submitted to and approved in writing by the local planning authority.
- 7) No development shall take until a Written Scheme of Archaeological Investigation shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an assessment of significance and research questions, and:
 - i) the programme and methodology of site investigation and recording;
 - ii) the programme for post investigation assessment;
 - iii) the provision to be made for analysis of the site investigation and recording;
 - iv) the provision to be made for publication and dissemination of the analysis and records of the site investigation;
 - v) the provision to be made for archive deposition of the analysis and records of the site investigation;
 - vi) the nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation.
- 8) Demolition, construction or installation works on the site and associated vehicular movements, including deliveries, shall take place only between 7am and 6pm, Monday to Friday and 8am to 1pm on Saturdays, and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 9) The mature tree shown on drawing no A/3107-01 Revision B to the south of Plot 2 shall be retained and notwithstanding the access details shown on the drawing the footpath between Plot 2 and Plot 3 shall not be positioned within the crown spread of the tree.