

Appeal Decision

Site visit made on 17 September 2019

by K Savage BA MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 October 2019

Appeal Ref: APP/Y2003/W/19/3233036

8 Old Post Office Lane, Barnetby Le Wold DN38 6JJ

- 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 Mr Basil Brader against the decision of North Lincolnshire Council.
 - The application Ref PA/2019/192, dated 23 January 2019, was refused by notice dated 15 May 2019.
 - The development proposed is the erection of 2m high boundary fence along western boundary, demolition on one pair of redundant semi-detached cottages and erection of detached garage for parking a motorhome/caravan and 2 no. cars.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on protected species.

Reasons

3. Two former workers' cottages exist to the front of the appeal site. I saw them to be in a poor condition, confirming the conclusions of the appellant's structural survey which stated that they are beyond economic repair and should be considered for demolition. The Council does not dispute this.
4. Notwithstanding their condition, however, the assessment of the Council's ecologist, based on standing advice from Natural England, concluded that the site exhibited a number of features indicative of an increased probability of a bat roost being present in the building, including the building being little used, gaps in the roof, its proximity to rural land and pre-20th century construction. The appellant argues that the cottages are regularly used for activities such as paint spraying incompatible with a habitat for protected species. On site, I saw an area on the ground floor which may be used for this purpose, but to the upper floor within the roof space I saw gaps in the exterior consistent with the features identified by the Council's ecologist. The site is also close to rural land.
5. The Planning Practice Guidance indicates that an ecological survey will be necessary in advance of a planning application if the type and location of development are such that the impact on biodiversity may be significant and existing information is lacking or inadequate. In view of the features identified by the Council's ecologist, I consider it was reasonable for the Council to seek such a survey.

6. Indeed, I note a previous application refused in January 2018 (Council Ref: PA/2017/1826) included a similar reason for refusal. Therefore, it is evident that this was a matter of concern to the Council from the outset of the application. Despite this, no bat or nesting bird survey was submitted by the appellant, and none is before me now. The appellant refers to a scoping survey from summer 2018 which found no evidence of bats, but states that a written report was either not produced or is no longer obtainable. Without a survey it is simply not known whether protected species are present and, if there are, whether or what mitigation measures would be appropriate. There is a further question of the implementation of any such measures. Given this degree of uncertainty, the use of conditions would not be reasonable in this case.
7. The absence of sufficient information means that I cannot rule out potentially significant harm to protected species. As such, I conclude that the scheme would be contrary to Policy CS17 of the North Lincolnshire Local Development Framework Core Strategy (June 2011) and saved Policy LC5 of the North Lincolnshire Local Plan (May 2003). Together, these policies seek preserve, manage and where possible enhance existing habitats and protected species. Moreover, the proposal would be contrary to the Framework which states that if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for then planning permission should be refused.

Other Matters

8. The appellant argues that the demolition of the cottages does not require planning permission; however, this is subject to a prior approval process and I have no evidence of prior approval being given by the Council in respect of this proposal. As such I do not have substantive evidence that a fallback position exists as a material consideration.
9. The Council did not raise objection in terms of the effect on the character and appearance of the area, highway safety, neighbours' living conditions or trees. I acknowledge that a number of representations from interested parties nonetheless raise concerns, particularly in respect of the size, position and appearance of the garage, its potential use and possible effect on hedges and trees. However, as my conclusions on the main issue point to the appeal being dismissed, it is not necessary for me to consider these concerns further, as they would not alter my overall decision.
10. I have had regard to the appellant's strong concerns about the Council's handling of the application, including delays to and timing of correspondence. Ultimately, these are matters for local government accountability and are not relevant to my decision, which I have assessed on its planning merits.

Conclusion

11. For the reasons given above, I conclude that the appeal should be dismissed.

K Savage

INSPECTOR