
Appeal Decision

Site visit made on 30 September 2020

by John Morrison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 October 2020

Appeal Ref: APP/A3010/W/20/3255809

Dame Lane Farm, Dame Lane, Misson DN10 6EB

- 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 Rick Williamson against the decision of Bassetlaw District Council.
 - The application Ref 20/00084/FUL, dated 12 November 2019, was refused by notice dated 10 June 2020.
 - The development proposed is described as a new single storey dwelling to the rear of Dame Lane farmhouse.
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Decision

1. The appeal is dismissed.

Main Issues

2. There are four main issues. These are a) the effect of the proposed development on the living conditions of existing and future occupiers; b) whether the proposed development would be at an unacceptable risk of flooding; c) whether the proposed development would adversely affect a site of archaeological interest; and d) whether the appeal scheme would preserve or enhance the character or appearance of the Misson Conservation Area.

Reasons

Living Conditions

3. Focussing on those of existing occupiers first, I see from the proposed plans that the appeal scheme would include a new detached garage for Dame Lane Farmhouse. The access to this would also serve the proposed new dwelling as well as an altered garage to Litka, one half of a pair of semi detached dwellings to the east. What would remain of the garden to Dame Lane Farmhouse would directly abut this access which, as I have said, would serve a net increase of not one but two dwellings, the vehicular comings and goings associated with which would be very noticeable above the current situation. To the extent that they would, in my view, be sufficient to lead to an adverse effect on the living conditions of occupiers of Dame Lane Farmhouse by way of disturbance from noise. Specifically, unacceptably diminishing the quality and usability of the garden.
4. The first floor windows of Dame Lane Farmhouse would look towards the proposed new dwelling, offering a direct line of sight from users of the

associated rooms. Any views would however be of the front elevation of the new dwelling and a place where there would naturally be less of an expectation for privacy. That said, the elevation of the windows and their proximity to the new dwelling would increase the sense of being overlooked which accordingly would reduce the quality of occupiers' living conditions.

5. There is a detached dormer bungalow immediately west of the appeal site which has two large windows in its roof space. These windows are at right angles to the rear elevation of Dame Lane Farmhouse. One, closest to Dame Lane Farmhouse, appears to be obscure glazed. The other, that would be closest to the proposed dwelling, is not. The size and elevation of this window would, on my assessment, appear to give a line of site into the rear garden of the new dwelling. It would not offer views of the whole of the rear garden, but I feel it would impinge on enough of it to reduce the privacy of occupiers. At the very least, such views would effectively push opportunities for private enjoyment of the new dwelling's garden to a small area between its rear elevation and the side elevation of the lounge/garage section.
6. As I have alluded to, the new dwelling would be afforded a garden area to its rear. It would be on the small side but purely on size alone I would not consider it unacceptable. I do however have concerns over its quality. Partly due to my earlier comments on privacy but also that, owing to the proximity of surrounding buildings, the dwelling itself and high boundary treatments, users of the garden would be subject to something of a hemmed in experience that would garner a strong sense of enclosure. These matters would also reduce the quality of the outlook from the rear windows of the new dwelling to an unacceptable level.
7. When taken together, these matters would adversely affect the living conditions of both existing and future occupiers. Resulting in conflict with Policy DM4 of the Local Plan¹ and Policies 2 and 4 of the Neighbourhood Plan². Amongst other things, along with paragraph 127 of the Framework³ and in regard to this main issue, these policies seek to ensure that new development demonstrates a high design quality that does not have a detrimental effect on the residential amenity of nearby residents and creates places with a high standard of amenity for existing and future users.

Flood Risk

8. The appeal site is in flood zone 2 as it is defined. Both section 14 of the Framework and Policy DM12 the Local Plan assert that development in areas at higher risk of flooding should be avoided by directing it to those areas at lowest risk. This is through the application of the Sequential Test (ST). Development in a flood zone should also be flood resilient, ensuring it is safe for its lifetime and where possible reduce risk elsewhere. This is through the application of the Exception Test (ET). The ET should be applied where it is not possible for development to be located in zones with a lower risk of flooding.
9. I do not have a ST before me, nor sufficient details from a Strategic Flood Risk Assessment (SFRA) for the district to enable me to apply one. It seems from the evidence that the entirety of the settlement of Misson is in a flood zone so,

¹ Bassetlaw District Local Development Framework Core Strategy and Development Management Policies Development Plan Document 2011

² Misson Neighbourhood Plan 2016-2031

³ The National Planning Policy Framework 2019

theoretically at least, if development in the village was considered appropriate in other respects then there is no realistic way it could be directed to an area at a lower or the lowest risk. That said, the Council explain there is a site allocated for residential development in the Neighbourhood Plan, at Misson Mill. The evidence suggests this is a previously developed site allocated for employment uses and up to 50 new dwellings and a village green.

10. Since this site is allocated in the development plan, the ST does not need to be applied for development thereon as per Planning Practice Guidance. Subject to the application of the ET therefore, this allocated site would be arguably more appropriate for the proposed development than the appeal site. As I have also set out above, I have not seen a complete SFRA or details of other sites which means I cannot be certain that there is not another site in the district which could accommodate the proposed development (which is ultimately a single dwelling) at a lesser or the lowest risk of flooding.
11. From the site specific flood risk assessment that has been undertaken for the site which takes account of a number of factors such as local defences, climate change and measures incorporated into the development, it could be made safe for its lifetime and not increase risk elsewhere. Indeed, it could fulfil some of the requirements of the ET in this regard. However, since the appeal site would not be sequentially appropriate, I would not be taken to assessing the appeal scheme under the ET. In any case, paragraph 160 of the Framework sets out two stages to the ET. I have addressed the first, but it also requires the development to provide wider sustainability benefits to the community that outweigh flood risk. Paragraph 161 explicitly states that both elements of the ET should be satisfied for the development to be allocated or permitted.
12. Taking the above into account, the appeal scheme would be at an unacceptable risk of flooding. This would be contrary to the aims of section 14 of the Framework and Policy DM12 of the Local Plan as I have explained them.

Archaeology

13. The Council have explained that the appeal site is in an area identified as one of archaeological interest. Their supporting evidence in this respect is light. I have no further details as to what it is about the appeal site that might be archaeologically important. Similarly, the appellant has not provided a great deal of counter evidence or indeed any sort of assessment of the site's potential, having regard to available records or any form of ground investigation. I therefore have insufficient information before me to take a view either way.
14. Adopting a precautionary approach as would seem appropriate in the circumstances, I cannot be certain that the appeal scheme would not adversely affect a site of potential archaeological interest. This would render it contrary to Policy DM8 of the Local Plan which seeks, in general terms, to safeguard the historic environment from harmful development.

The Misson Conservation Area (MCA)

15. The appeal site is an open and undeveloped flat area of land laid to both hardstanding and overgrowth to the rear and side of Dame Lane Farmhouse. The farmhouse is a detached, two storey building to the very front of the plot, sitting directly on the back edge of the footway at Dame Lane. It is of

traditional design and proportions. Along with its street scene presence it therefore makes a positive contribution to both the street scene and subsequently the MCA. Property type and design varies in the street scene, which is formed by the rough 'square' of Dame Lane, Middle Street and High Street. Development tends to be of a single tier depth, at road frontages within the 'square' but backland development is not uncommon to the wider MCA. There is a distinct informality to the layout of built form, plot depth and size, orientation and open spaces.

16. The proposed development would be of the backland type and thus introduce a tier uncharacteristic of the immediate area but since there are examples of backland development elsewhere in the MCA I do not find that such a change would be unduly harmful. Whilst a new primary building, its own access and curtilage would have something of a crowding effect on the plot I would not consider the innate openness of the site as it currently is particularly noteworthy, to the extent it would positively influence the MCA. Bearing in mind what was formerly there in the shape of some modern outbuildings. The erection of a well designed, modest dwelling, a suitably proportioned and pitched roof detached garage and general tidy up of the site would, in my view, have a positive effect on the MCA in the above circumstances.
17. With this in mind, I feel the appeal scheme would not cause harm to the MCA, such that its character and appearance would be preserved and to some extent enhanced by virtue of my findings in paragraph 16. Consequently, the proposed development would comply with Policy DM4 and DM8 of the Local Plan, Policies 2 and 4 of the Neighbourhood Plan and sections 12 and 16 of the Framework. Amongst other things, (and in specific regard to infill development in Misson) these policies seek to ensure that new development is of a high quality, in keeping with and reflecting the character and appearance of the local area. It should complement and enhance the character of the historic environment and ensure that it is (more generally) safeguarded from harm.

Other Matters

18. The appeal scheme, in providing a new access for the neighbouring dwelling known as Litka, would close off its existing vehicular access and provide a designed communal one with a good standard of visibility onto what is a narrow road with buildings sat to its front. This would be positive for the immediate area and those accessing the nearby primary school particularly. On its own however, this would be insufficient to outweigh what would be multiple harms arising from the proposed development in other respects.
19. The proposed development would provide for a property type that appears to find some support from the neighbourhood plan. That said, the Council's evidence explains that Policy 3 states a demand in the area for two bedroom bungalows and the appeal scheme would provide a three bedroom property. This would therefore limit the positive weight I could ascribe to this matter.
20. The evidence suggests that the appeal site is in close proximity to the St John the Baptist Church which is grade I listed. Given the relative seclusion of the site itself, the low rise and appropriate design approach for the dwelling and the positive effect it would have on the MCA, as well as taking into account the general built up nature of the church's immediate surroundings, I do not consider that the appeal scheme would impinge on its setting.

Conclusion

21. I have found that the proposed development would not harm the MCA. This would be a lack of harm which by definition cannot be used to weigh against it. The harms I have found are in regard to the living conditions of existing and future occupiers, how the proposed development would be at an unacceptable risk of flooding and that it has not been demonstrated that an area of known archaeological interest would not be adversely affected. These harms would mean multiple conflicts with the development plan and the Framework. It is for these reasons that the appeal is dismissed.

John Morrison

INSPECTOR