
Appeal Decision

Site visit made on 20 October 2020

by K A Taylor MSC URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 December 2020

Appeal Ref: APP/Y2003/W/20/3257502

163 Westgate Road, Westgate, Belton DN9 1QA

- 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 Brian Watson against the decision of North Lincolnshire Council.
 - The application Ref PA/2019/1722, dated 14 October 2019, was refused by notice dated 24 June 2020.
 - The development proposed is to erect a detached 3 bedroom dormer bungalow and garage.
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Decision

1. The appeal is dismissed.

Procedural Issue

2. Outline planning permission is sought with all matters reserved for future consideration. An indicative site plan has been submitted showing the respective position of the dwelling and garage. I have therefore taken this into account in so far as establishing whether it would be possible, in principle, to erect 1 dwelling and a garage on the site.

Main Issues

3. The main issues are:
 - Whether the appeal site forms a suitable location for development having regard to national and local planning policies;
 - The effect of the proposed development on the character and appearance of the area, having particularly regard to the historic landscape; and
 - Whether the proposal would comply with national and local planning policy which seeks to steer new development away from areas at the highest risk of flooding.

Reasons

Location of development

4. The appeal site forms part of the garden area to No.163 Westgate Road (No.163). It is located outside of the defined settlement boundary for Belton and is therefore designated within open countryside.

5. Policies, CS2, CS3 and CS8 of the North Lincolnshire Local Development Framework, Core Strategy, 2011 (CS) and Saved Policy RD2 of the North Lincolnshire Local Plan, 2003 (LP) aim to restrict housing development within settlement limits and the open countryside, however their restrictive nature, in this respect, would not be entirely consistent with the National Planning Policy Framework (the Framework). Nonetheless, they take account of the suitability of the location, in regard to it being capable of being served by public transport, maintains viability, meets an identified need without increasing the need to travel.
6. Paragraph 78 of the Framework promotes sustainable development '*housing should be located where it will enhance or maintain the vitality of rural communities*'. Paragraph 110, advises that applications for development should '*give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use*'.
7. There is little in the way of day to day services and facilities within the small rural settlement of Westgate itself, although there is a nearby public house. In terms of other services / shops / facilities these are located within the larger settlement of Belton. It has a pedestrian connection by way of a floodlit footpath running along Westgate Road but the appeal site is not served by any public transport. Therefore, future occupants of the development would be largely reliant on the private motor car to access services and facilities. On this basis, the proposed development would not enhance or maintain the vitality of the rural community of Westgate and would lead to the use of unsustainable travel modes.
8. I acknowledge that the development would be located to the nearby village boundary and there are existing properties along Westgate Road. Having had regard to the High Court judgement¹ regarding paragraph 55 (now paragraph 79) of the Framework, this physical location would not result in new isolated homes in the countryside that the Framework seeks to avoid. Thus, there would be no conflict with paragraph 79 of the Framework. Nevertheless, there would still be minor negative environmental and social effects arising from the location in terms of the use of natural resources and the accessibility of local services.
9. For the reasons given above, I conclude that the proposed development would not be within an appropriate location for new housing, it would have poor accessibility for residents to access the necessary services and facilities, which would necessitate a greater reliance upon less sustainable forms of travel. It would be contrary to Policies CS2, CS3, CS8 of the CS and Saved Policy RD2 of the LP. These policies, amongst other matters, seek to direct new development to within the defined settlement limits; sustainable locations and reduce the need to travel.

¹ Braintree District Council v Secretary of State for Communities and Local Government & Ors [2017] EWHC 2743 (Admin)

Character and appearance

10. The appeal site lies within the Isle of Axholme (IoA), an area of special historic landscape. The landscape of IoA is identified as having significant areas of medieval open strip fields and turbaries, of national importance. These attributes together with enclosed land and the overall settlement pattern of the area make it unique in the country. It is essential therefore that future development is not allowed to adversely impact on this valuable historic resource in relation to the character of settlements, individual buildings or groups of buildings in the countryside.
11. The Historic Environment Officer indicates that the appeal site forms part of the historic landscape character zone of the Early Enclosed Land (EEL) forming a large block surrounding the ancient open strip field (AOSF) known as Belton Field towards the southeast. Belton Field is one of the best-preserved areas of historic landscape in the Isle. The EEL block of land north and south of Westgate retains the characteristics features of the EEL, with clear open views from within and across the historic landscape including looking towards and out from the site, including the Westgate roadside.
12. The EEL and Westgate dates from around the 19th century, properties form an almost continuous line along the south side of Westgate and consists of a distinctive built form and character. The property at the appeal site, No.163 is identified on the OS Map of 1887 and comprised a small farmstead with barns and outbuildings, with a farmhouse located towards the roadside central within the wide plot. It is considered that the property and buildings appear remarkably unchanged. The plot at No.163, being the appeal site is the only substantial gap between those houses on the south side from where the historic landscape is visible, legible and the character and historic setting to be appreciated. As such, it is an important buffer and open setting to the EEL and contributes to the setting and significance of the historic landscape.
13. Saved Policy LC14 of the LP sets out that within this area, development will not be permitted which would destroy, damage or adversely affect the character, appearance or setting of the historic landscape, or any of its features. Policy DC1 of the LP sets out the criteria for proposals to be considered against, including that they should reflect or enhance the character, appearance and setting of the immediate area, respect existing landform and there should not be an adverse effect on features of acknowledged importance, on or surrounding the site.
14. Whilst Policy CS6 of the CS, safeguards the nationally significant medieval landscapes of the IoA (notably the open strip fields and turbaries). It seeks to protect, conserve and enhance the historic environment, as well as the character and setting of areas of acknowledged importance. New development must respect and enhance the local character and distinctiveness of the area, particularly in areas of high heritage value.
15. The IoA historic landscape, is not identified for purposes within the Framework as a designated heritage asset². Nonetheless, it is evident that its importance and significance has been identified, including within the development plan. Therefore, the historic landscape and historical association of the appeal site

² Annex 2: Glossary – Designated Heritage Asset

including those remaining buildings represent non-designated heritage assets, as defined in the Framework.

16. The Framework at paragraph 184, recognises that heritage assets range from sites and buildings of local historic value to those of the highest significance. These assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance. Paragraph 189 states that, in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance.
17. As a minimum the relevant historic environment record (HER) should have been consulted and the heritage assets assessed using appropriate expertise where necessary. I acknowledge that the appellant submitted a 'Heritage Statement' with the application, however this is somewhat limited and there is no reference to the historic landscape, description or significance, or that it appears that the HER was consulted. As such, I would agree with the Council the statement is somewhat inadequate.
18. The proposed dwelling would be located within the former paddock, now being enclosed garden land to the east of No.163 and bound by existing built development. Although, indicative, the plans show that the dwelling would be set back from the roadside with a garage positioned towards the rear of the site. I acknowledge that there is a variety of buildings along Westgate, however I consider that the dwelling would be at odds with the linear settlement pattern, particularly the alignment of the 19th century residential development east-west.
19. Furthermore, the proposed dwelling would likely appear cramped and discordant given that the plot size is relatively narrow, and any dwelling would almost fill the entire width of the site. This is exacerbated by the constraints of existing built development on each side. It would therefore dominant the original existing built form and detract from the character and appearance of the area, including the 19th century street character.
20. Moreover, there is an existing gap between the appeal site and properties along the south side which provides views of the historic landscape including the EEL. The proposed development would significantly reduce and close the last gap between houses, removing the buffer and causing a detrimental effect on the setting, appearance and character of the immediate and wider historic area.
21. Paragraph 197 of the Framework requires that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
22. As I have set out, the appeal site acts as an important gap or buffer to the historic landscape beyond. The level of intrusion of the proposed built development into the space and the unjustified loss of the existing gap would

mean that the loss of significance to non-designated heritage assets would be considerable.

23. For the reasons given above, I conclude that the proposed development would be harmful to the character and appearance of the area, with regard to the historic landscape, IoA. It would be contrary to Saved Policies LC14 and DS1 of the LP and Policy CS6 of the CS as already identified above. It would also conflict with the heritage protection aims of the Framework.

Flooding

24. There appears to be some disagreement at the time of the planning application as to the flood zone the site falls within. The location of the proposed development would fall within the Environment Agency (EA) flood map within flood zone 1. However, from the evidence before me the EA has advised that the area falls within critical drainage which is artificially managed by a complex network of pumps and drains. Furthermore, it advises that is likely that the SFRA will maintain this.
25. National Planning Policy Guidance (PPG)³ notes that the flood zones on the EA flood maps for planning (rivers and sea) do not take account of the possible impacts of climate change and consequent changes in the future probability of flooding. Reference should also be made to the Strategic Flood Risk Assessment (SFRA).
26. The Council advises that the site is located within Zones 2 and 3a of the North Lincolnshire Strategic Flood Risk Assessment (SFRA). I accept that this assessment was carried out some years ago, but it would appear that this is being updated and the data is still relevant. I acknowledge that the appellant has undertaken a 'Flood Risk Assessment' report. However, the Framework sets strict tests to protect people and property from flooding, where those tests are not met it is clear that new development should not be allowed. This includes, applying the sequential test and then, if necessary, the exception test.
27. The Framework at paragraph 158, sets out the aim of the sequential test is to steer new development to areas with the lowest risk of flooding. Developments should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. In this case, the Council advise that there are two sites within the defined settlement boundary for a single dwelling, available and in Zone 1, albeit limited details but I have no evidence to the contrary.
28. Therefore, I have no substantive evidence to disagree with the Council's findings on this and that a sequential test has not been undertaken or passed, as such the proposed development would be classed as a more vulnerable use and fails to demonstrate that the development would be located safe from flood risk and flood risk is not increased elsewhere.
29. It would be contrary to Saved Policy DS16 of LP and Policy CS19 of the CS. These policies are broadly consistent with the aims of the Framework. Which seek to restrict development in flood risk areas; and only permit developments where it is demonstrated that the development provides wider sustainability benefits, and there must be no reasonable alternative developable sites on previously developed land.

³ Paragraph: 065 Reference ID: 7-065-20140306 Revision date: 06 03 2014

30. As such it would also be contrary to Section 14, Planning and flood risk within the Framework, paragraphs 155, 158 and 163, which aim to ensure inappropriate development in areas at risk of flooding should be avoided; where necessary ensuring it is safe for its lifetime without increasing flood risk elsewhere; and where appropriate, applications should be supported by a site-specific flood risk assessment.

Other Matters

31. The appellant contends that the appeal site amounts to previously developed land (PDL) and not open countryside. The Framework supports development that makes efficient use of land, through the definition of PDL, which includes land occupied by a permanent structure including the curtilage of developed land and fixed surface infrastructure, however this does not go without being caveated and excludes land in built-up areas such as residential gardens.
32. I have no evidence that the appeal site is identified within the development plan for residential development, but even if I were to consider the site amounts to PDL, the proposal would not make efficient use of land, it would not maintain the area's prevailing character or setting and so would not accord with paragraph 122 of the Framework.
33. My attention has been drawn to other nearby developments and appeals. However, I do not have the individual circumstances of these and so cannot be sure they are comparable to the proposal. In any event, the appeal is determined on the basis of its individual merits and the evidence before me.
34. Although there was lack of objections from local residents, these matters do not outweigh the harm I have identified caused by the proposed development.

Planning Balance and Conclusion

35. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The Framework is a material consideration in planning decisions.
36. It is not disputed that the Council cannot demonstrate a five-year supply of deliverable housing sites. In such circumstances, paragraph 11(d)(i) of the Framework states that the presumption in favour of sustainable development should be engaged unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed.
37. Footnote 6 of the Framework provides a complete and exhaustive list of those Framework policies to which paragraph 11(d)(i) refers, which includes policies relating to development located within areas at risk of flooding or coastal change. Given my findings in relation to flooding and the conflict that I have identified with the Framework, which provides a clear reason for refusing the proposed development, the presumption in favour of sustainable development does not apply.
38. Even, if I were to consider that the tilted balance was engaged, I find that the adverse impacts of the proposed development including the harm to the character and appearance of the non-designated heritage asset of the IoA, and its unsuitable location, would significantly and demonstrably outweigh the

benefits, when assessed against the policies of the Framework taken as a whole. It would not therefore amount to a material consideration that would outweigh the conflicts I have found with the development plan.

39. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

KA Taylor

INSPECTOR