The Planning Inspectorate

Appeal Decision

Site visit made on 12 January 2021

by G Rollings BA (Hons) MAUD MRTPI

An Inspector appointed by the Secretary of State

Decision date: 11 March 2021

Appeal Ref: APP/N2535/W/20/3259683
Salisbury, Main Street, Grasby, Barnetby, DN38 6AH

- 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 Ian Manser against the decision of West Lindsey District Council.
- The application Ref 140577, dated 5 February 2020, was refused by notice dated 7 April 2020.
- The development proposed is the erection of a single storey dwelling with associated parking.

Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by Mr Ian Manser against West Lindsey District Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are:

   - The effect of the proposed development on the living conditions of the occupiers of The Old Chapel and 1 Clixby Lane, with particular reference to overlooking and privacy;
   - The effect of the proposed development on the character and appearance of the area; and
   - The effect of the proposed development on the setting of a nearby Grade-II Listed Building.

Reasons

Living conditions

4. The proposed dwelling would be located on a flat piece of land raised above the sloping Main Street. The gradient of the street is substantial, and residential dwellings The Old Chapel and 1 Clixby Lane have ground levels that are significantly below the level of the appeal site. The side of The Old Chapel almost adjoins the appeal site boundary, whereas the rear elevation of No. 1 faces the site and is separated by private garden space.

5. The elevated position of the site allows views into these neighbouring properties. Although there is some vegetation on the bank and edge of the site and within the gardens of the neighbouring properties, much of it was not in leaf during my visit and as such there were clear views from the site. The noticed that the view towards No. 1 appeared to be across the rear garden of The Old Chapel, and that there was a distance of several metres between the site and the rear windows of No. 1, together with glimpses of its rear garden. The distance between the proposed dwelling and No. 1, together with the erection of boundary fencing, would be sufficient to ensure that there was no significant overlooking of that property, or loss of privacy by its residents.

6. Of greater concern is the potential effect on the occupiers of The Old Chapel. The sloping side roof of this building contains several 'velux'-type roof windows, which directly face the appeal site and proposed dwelling. These are similar to or above the current ground level of the appeal site, and an occupier of this property advises that these include a non-opaque window serving a bathroom, and others serving habitable rooms. From the appeal site, and through these windows, I was able to see activity within the dwelling. Due to the proximity and orientation of The Old Chapel's windows and the proposed living room windows shown on appeal plan 04 F, I am not convinced that there would be an avoidance of overlooking from the proposed dwelling, even with a boundary fence or vegetation in place. I appreciate that the ground level of the appeal site would be lowered as part of the development, but from my observations I consider that direct overlooking into habitable rooms would remain possible.

7. The appellant's statement mentions that the small windows serving the proposed living room would be at an obtuse angle in regard to views to No. 1, but I consider that overlooking would still occur to The Old Chapel. I am also concerned that the proximity of new structures and domestic activity could lead to the occupiers of The Old Chapel experiencing a loss of privacy, which would harm their living conditions.

8. I have taken account of the fact that there are two versions of the proposed floor plan, appeal plan 04 F showing the aforementioned windows, and Plan 03 D showing no side-facing lounge room windows on either the floor plan or the relevant elevation. The use of a planning condition to overcome this discrepancy would not be appropriate in this instance, as such mitigation has not been proposed by any party, and for me to impose a condition during the appeal stage would deprive interested parties of the opportunity to comment, thereby depriving them of natural justice.

9. I therefore conclude that the proposed development would have a harmful effect on the living conditions of the occupiers of The Old Chapel, with particular reference to overlooking and privacy, although there would be no significant harmful impact on the occupiers of 1 Clixby Lane. The proposal would conflict with *Central Lincolnshire Local Plan* (2017) (the Local Plan) Policy LP26, which requires development to not harm the amenities of occupants of neighbouring land, amongst other considerations. This policy is consistent with the *National Planning Policy Framework* (2019) (the Framework).

Character and appearance

10. There are two aspects for consideration in this main issue: the amount of development on the site, and the effect of the street scene. I shall examine each in turn.

11. The appeal site is a division of a larger site, on which two other dwellings are located. Rhodesia is sited towards the rear of the site, and Salisbury is a later addition on the front of the site. The latter would be separated from the proposed dwelling by the driveway shared by all three properties. Although the three dwellings would have various plot sizes, these would not be out of character with the varying plot sizes throughout the village, including sites smaller than the one proposed. Although the creation of a 'backland' plot-style access to Rhodesia would be out of character with the general street-facing arrangement of other homes in the village, the harm to the character and appearance of the local area resulting from this arrangement would be minimal.

12. The existing slope between the road is vegetated, with the appeal plans indicating that none of the street-facing trees or shrubs would be retained. The site represents the transitional point between the similarly vegetated conditions uphill, and the built-up part of the village downhill, with buildings directly fronting or close to the street pavement. A bare or paved slope would be wholly out of character and harmful to the street scene, but the plans indicate that there would be space to enable vegetation of much of the retaining slope. Were the appeal to be allowed, a planning condition could be applied to ensure that this would occur, and whilst there would be some harm to the street scene resulting from the loss of existing vegetation, this would not be significant.

13. I therefore conclude that the proposed development would not harm the character and appearance of the area, and would not conflict with Local Plan Policies LP17 or LP26. Together, these policies require development to maintain and respond positively to features which contribute to the character of an area and its townscape, amongst other considerations, and are consistent with the Framework and *National Design Guide* (2021).

Listed building

14. The Old Post Office, a grade-II Listed building, is located on the opposite side of the road and downhill from the appeal site. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, (the Act) requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting, its significance, or any features of special architectural or historic interest.

15. The significance of the listed building lies in its architectural form and features, together with a corner location that recalls its former use as an important facility in the village. The appeal site is close to the listed building and part of its setting, with intervisibility from both locations. Visibility of the development could be partly mitigated by tree retention or replanting of the street-facing bank, were the appeal to succeed, and given the existing mostly built-up area around the building, any effects to the setting, including views of the building, would be unharmed.

16. I therefore conclude, in accordance with the clear expectations of the Act, that the setting of the listed building would be preserved, together with the significance of the designated heritage asset. There would be no conflict with Local Plan Policy LP25, which requires development proposals to protect, conserve and seek opportunities to enhance the historic environment, amongst other considerations, and which is consistent with the Framework.

Other issues

17. I have received submissions referring to land ownership and boundary issues, together with concerns from neighbours in relation to other matters. However as I am dismissing the appeal, there is no need for me to consider them in this decision letter.

Conclusion

18. Although I have found that there would be no harm with regard to the proposal's impact on character and appearance and the listed building, there would be harm to the living conditions of the occupiers of The Old Chapel. As such, the proposal is in conflict with the development plan for the area and there are no material considerations to indicate otherwise.

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

G Rollings

INSPECTOR