The Planning Inspectorate

Appeal Decision

Site visit made on 4 May 2021

by Peter Mark Sturgess BSc (Hons), MBA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: Friday, 14 May 2021

Appeal Ref: APP/Z2505/W/20/3262366
Land adjacent Laconia, Church Road, Freiston, Boston, PE22 0NX.

- 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 Matthew Sands against the decision of Boston Borough Council.
- The application Ref B/20/0147, dated 19 April 2020, was refused by notice dated 19 August 2020.
- The development proposed is erection of four-bedroom modern family home with detached garage, including boundary fence.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are:

    - the location of the proposed development in relation to surrounding villages, services, and employment,
    - the flood risk associated with the site, and
    - the effect of the proposed development on the setting of Georgian House, a Grade II listed building.

Reasons

The location of the proposed development

3. The site is located in a countryside area characterised by sporadic development spread along a rural road. Whilst the site is not isolated, as there are other dwellings nearby, it is some distance to the services in towns and villages in the area.

4. The development plan includes the South East Lincolnshire Local Plan, adopted in March 2019 (SELLP). Its policies distribute development in the area in terms of a hierarchy of settlements and locations. Policies 1 and 11 direct development to the sub-regional, main, and minor service centres of the area and only support development in other areas if it meets certain criteria.

5. The appeal site does not lie within any of the areas identified for development in the SELLP and in terms of its policies the site lies in the countryside. Policy 1 allows for new development in the countryside, where it is necessary for it to

be located in a countryside location, and/or where it can be demonstrated that it meets the sustainable development needs of the area in terms of economic, community or environmental benefits.

6. The appellant has argued that the development will have economic, community and environmental benefits to the local area in terms of increasing the housing land supply, providing income for local trades people during its construction and an on-going economic benefit to local services. Furthermore, the appellant has argued that the site is in a sustainable location as it is on a bus route, close to a bus stop and within easy commuting distance of Boston and the local railway station.

7. In terms of housing land supply, the Council has demonstrated that it has a 5-year supply of deliverable housing sites. I note that the appellant has argued that it currently has a shortfall in the delivery of this supply. However, it is common that housing supply varies from year to year and this does not negate the fact that the Council has a 5-year supply of deliverable housing sites and a track record of delivering new homes over the previous few years.

8. Whilst the site is within walking distance of a bus stop, I have not been supplied with any evidence that the bus service which is available would be suitable in terms of its frequency for the day to day services the occupants of the dwelling would require. The default position for the occupiers of the dwelling in the absence of a convenient public transport service would be to use their car to access services in the surrounding towns and villages.

9. No circumstances have been advanced by the appellant to show that there is a local need for the proposed dwelling, nor that it is required to be located in a countryside location in order to meet a specific local need or circumstance. Whilst I have had regard to the contribution the proposed dwelling might make to the vitality of rural communities, given its location away from nearby villages I regard any contribution it might make as minimal.

10. Therefore I find that the proposal is in conflict with Policies 1 and 11 of the SELLP as it is in a countryside location away from the areas which are identified for growth and there are no factors which demonstrate why it should be in a countryside location, such as those set out in paragraph D of Policy 1.

Flood risk

11. The appellant has argued that the area is protected by flood defences, and that the likelihood of any new dwelling suffering from severe flooding is small. The Strategic Flood Risk Assessment (SFRA) supplied by the Council does not take account of the presence of flood defences since they can be over topped when flooding occurs. Moreover, defences can fail in extreme events and this is likely to cause rapid inundation of areas behind flood defences which can occur without warning.

12. As most of the Council's area is within Flood Zone 3, the area at the highest risk of flooding, the Council also relies on Hazard Mapping as an additional filter in assessing the flood risk of sites proposed for development. In accordance with the Hazard Mapping the site also lies within an area defined as *'danger for all'* in terms of its flood risk. Therefore, it is not only in the Flood Zone at the highest risk of flooding it is in one of the areas at the most risk of serious harm from flooding in that Zone.

13. The Government's policy on flooding is set out in the National Planning Policy Framework (the Framework) which outlines its intention to steer new development to areas with the lowest risk of flooding. It does this through the application of a sequential test where development is directed to the areas with the lowest risk of flooding in the first instance.

14. The Council can demonstrate a 5-year supply of deliverable housing sites. Furthermore, it has a local plan, the SELLP, that was adopted in 2019 and allocates sites for development throughout its area. Moreover, it allows for other development, outside the allocated sites, through its policies. The 2017 SFRA supplied by the Council supported the production of SELLP. Consequently, there will be sites within the District, identified in the SELLP, which are available for development that are at lower risk of flooding than the appeal site. These will include windfall sites at appropriate locations.

15. Despite the appellant arguing that in terms of the Council's 2010 SFRA the site lies within Flood Zone 1 I have had to have regard to the 2017 SFRA and the Environment Agency's flood maps in this decision. I therefore regard the 2017 SFRA and the Environment Agency's flood maps as more up to date than the 2010 SFRA.

16. Consequently, and in terms of the sequential test set out in the Framework I find that there are reasonably available sites appropriate for the proposed development within the District which will be at a lower risk of flooding. Therefore, the sequential test is not passed.

17. Policy 4 of the SELLP allows development in Flood Zones 2 and 3 provided, amongst other things, the sequential test is passed. It is clear from the evidence I have seen that the appeal proposal does not pass the sequential test. Consequently, I find that the proposal is in conflict with Policy 4 of the SELLP.

Setting of Georgian House – Grade II listed building

18. The listed building lies on the opposite side of the road to the appeal side and some distance away towards the settlement of Haltoft End. It has substantial newly built detached houses to its left-hand side, when viewed from the road and a dwelling under construction to its right. On the side of the road where the appeal site is located there are open fields in front of the listed building and these would remain if the appeal proposal were to be implemented. Therefore, its immediate setting either side has been significantly affected by recent developments and its setting to the front would be unaffected by the development.

19. The appeal site is set down from the listed building and is at some distance from it. It is unlikely that the appeal site would ever have formed part of the curtilage of the listed building and there appears to be no functional or historic relationship between the two. In visual terms the appeal site would relate to other dwellings on its side of the road and there would be no visual relationship between the proposed dwelling and the listed building.

20. It is clear to me that the appeal proposal would not harm the significance of the setting to the listed building and its affect at worst would be neutral. I understand the Council's argument that the appeal dwelling would be different in style to the listed building. However, and given the relationship between the

two buildings and the distance between them, the design of the appeal proposal would not impinge on or harm the significance of the setting to the listed building. In this respect the duty set out in S66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 for me to have special regard to the desirability of preserving the building or its setting is not engaged.

21. Policy 29 of the SELLP deals with the protection of the historic environment, including listed buildings and their settings. As I find no harm to the significance of the setting of Georgian House, a grade II listed building, brought about by the appeal proposal, were it to be implemented, I consequently find no conflict between the appeal proposal and this policy.

Other Matters

22. The appellant has referred me to other recent housing developments in the immediate area of the appeal. One has been referred to as a 'barn conversion' and the other as a 'replacement dwelling'. I do not have the precise circumstances which led to the approval of these developments. However, it could be that different policy considerations apply to these developments. In any case I am required to determine the current appeal on its particular merits. Therefore, I do not consider that these developments altered my assessment of the appeal proposal against the policies of the development plan.

23. The appellant has put forward benefits of the development and whilst I have had regard to the economic benefit of the development during its construction phase and once it has been completed I find that these do not outweigh the conflict I have found between the proposal and the policies of the development plan.

Conclusion

24. I have found that the appeal proposal is in conflict with Policies 1, 4 and 11 of the SELLP. S38(6) of the Planning and Compulsory Purchase Act 2004 states, amongst other things, that proposals should be determined in accordance with the development plan unless material considerations indicate otherwise. Whilst I have also found that the proposal does not affect the significance of the setting of the Georgian House, a grade II listed building I find that this is not sufficient to outweigh the conflict with other policies of the development plan I have identified.

25. Consequently, the appeal is dismissed.

Peter Mark Sturgess

INSPECTOR