
Appeal Decision

Site visit made on 9 November 2021

by Darren Hendley BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th November 2021

Appeal Ref: APP/A3010/W/21/3274508

Land located off Church Lane, Clarborough, Retford

- 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 UKSD Developments against the decision of Bassetlaw District Council.
 - The application Ref: 20/01541/OUT, dated 25 November 2020, was refused by notice dated 4 March 2021.
 - The development proposed was originally described as an 'outline planning application for proposed residential development including means of access for up to 10 new dwellings in the form of specialist accommodation to meet an identified local need'.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The application is in outline form with all matters reserved for future consideration apart from access. I have dealt with the appeal on this basis and I have treated any details not to be considered at this stage as being illustrative only.
3. The appellant details are different from those that are set out on the planning application form. I am however satisfied that the appellant has the authority in order for the appeal to proceed as this company is named on the planning application form.
4. The description of development above is also taken from the planning application form. During the course of the application, the appellant informed the Council that the proposal was for affordable dwellings. I refer to this matter later in my decision.
5. The appellant submitted an updated Flood Risk Assessment & Outline Sustainable Drainage Strategy (FRA) with the appeal, in response to the Council's concerns over the lack of information on flood risk and surface water drainage. As the Council and interested parties have had the opportunity to comment on this document during the appeal process, I have considered it in my decision.
6. The Council's reason for refusal which concerns listed buildings refers to The Church of St John the Baptist as Grade II listed. Under the Historic England

listing record it is Grade I listed and so I have considered this designated heritage asset accordingly.

7. The revised National Planning Policy Framework (revised Framework) was published during the course of the appeal, which I have considered in my decision. The main parties were given the opportunity to comment on this matter during the course of the appeal.

Main Issues

8. The main issues are the effect of the proposal on (i) the character and appearance of the area; (ii) whether it would preserve the setting of listed buildings, including The Church of St John The Baptist, and The Old Vicarage, the Chest Tombs and the Lych Gate; (iii) biodiversity interests; (iv) flood risk, in particular related to surface water drainage; and (v) housing mix.

Reasons

Character and Appearance

9. The appeal site comprises part of a field that is located to the rear of dwellings on Church Lane. There is a small frontage area that is used as a paddock. The boundary with the rest of the field is not delineated and the site also abuts a further field to the south. The A620 runs along the western boundary, which is defined by a hedgerow which also extends along part of the southern boundary of the site.
10. The pattern of development along this part of Church Lane consists of a fairly low density linear arrangement of bungalows, a farm, a further paddock and The Church of St John The Baptist. These contribute pleasingly to a rural character. The bulk of built development in the village lies well north of the site. Development along the stretch of the A620 next to the site and south of the village is limited to occasional built development that is well separated between open fields.
11. The site lies within the Idle Lowlands Policy Zone 08: Retford in the Bassetlaw Landscape Character Assessment (LCA). The area ably demonstrates an open rural character and the site contributes favourably in this regard. As the proposal would include up to 10 dwellings, it would be a marked incursion into the countryside that would represent a distinct and outlying cluster of development beyond the southern edge of the village. It would, in effect, stand alone because it would only abut existing dwellings on part of one boundary of the site. The extent to which it would be directly adjacent to the built form of the village would be limited.
12. Moreover, the proposal would be beyond the transition of the village into the countryside, which is a function that Church Lane clearly performs, and so it would detract from the landscape setting. The site performs a visual and physical break between Church Lane and the A620. This would be significantly reduced with the proposal located in between.
13. Nor would the proposal be in keeping with the development along Church Lane itself. In these surroundings, it would involve a development of some size located well to the rear of the existing properties. It would be in marked contrast to the linear pattern of built development and, hence, it would also unduly disrupt this aspect of the character of this part of the village.

14. The appellant has referred to dealing with layout, scale and a rural form at a reserved matters stage. However, as an outline approval would form the planning permission, it is reasonable to consider at this stage whether the site can likely accommodate the proposal in order to establish the effect on the character and appearance of the area. If this was not the case, then a permission would in effect be nullified where reserved matters would not be able to provide for an acceptable development.
15. Whilst it is intended that the dwellings would be bungalows and a large amount of open space would be provided, this would not address the harm caused by the proposal because of the loss of the open countryside character and as it would not conform to the linear development along Church Lane. In coming to this view, I have also considered the photographic evidence that the appellant has submitted as a Visual Impact Assessment (VIA).
16. I conclude that the proposal would have an unacceptable effect on the character and appearance of the area. Accordingly, it would not comply with Policies DM4 and DM9 of the Bassetlaw District Local Development Framework Core Strategy & Development Management Policies DPD (2011) (DPD) where they concern high quality design; development respecting its wider surroundings, including to historical development patterns; and that proposals in and adjoining the countryside will be expected to be designed so as to be sensitive to their landscape setting, including with regard to the distinctive qualities of the landscape character policy zone, as identified in the LCA.
17. It would also not comply with Policies 2 and 4 of the Clarbrough and Welham Neighbourhood Plan (2017) (NP) which require residential proposals to demonstrate that design has thoroughly considered the local character, enhances the distinctiveness and quality of the village and is in keeping with the character of the area particularly in relation to historic development patterns, amongst other considerations.
18. In addition, it would not accord with the LCA because it would not conserve the open rural character of the landscape and, similarly, with regard to paragraph 130 of the revised Framework where it concerns local character and history.

Listed Building - Church of St John The Baptist

19. The Church of St John The Baptist's most noticeable external feature is the 2 stage west tower, with its external buttresses. With its scale and form, it is a prominent landmark. This reflects its status and origins, and the historical significance is greatly derived from its setting in a largely open and rural landscape context. Its imposing presence also results from its positioning at a higher land level than Church Lane, with the churchyard sloping up to it. The significance of this asset is of a high order, and this is reflected in the grade of the listing.
20. The site also lies at a lower land level than the church and is found on the opposite side of Church Lane and behind the linear arrangement of bungalows. The broader rural area, including the site, has remained largely undeveloped and so much of this aspect of the historical significance remains. When this is considered with the church's elevated position and proximity, the site clearly falls within its setting.

21. This is also evident when the church is viewed from the A620 across the site, where the upper part of the tower is clearly visible. The proposal would be in the foreground to the church in this direction and would diminish the significance that is derived from the setting due to the encroachment of built development onto the open field that would result. I have also considered the VIA in this regard, but plainly I disagree over the extent of the contribution to the significance of the setting that remains and effect on it that would result from the proposal.
22. The statutory duty under Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 concerning the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses is of considerable weight and importance. Having regard to the above matters, I conclude that the proposal would fail to preserve the setting of The Church of St John The Baptist. This weighs considerably against the proposal.
23. It would also not comply in this regard with Policy DM8 of the DPD where it seeks to protect and enhance the historic environment, and identifies that the setting of an asset is an important aspect of its special architectural or historic interest and proposals that fail to preserve or enhance the setting of a heritage asset will not be supported.
24. For the purposes of how the revised Framework considers the potential impacts on the significance of a designated heritage asset, 'less than substantial harm' would arise. The Council consider the harm would be 'substantial', but this is a high test in particular where the harm concerns setting. Under paragraph 202, 'less than substantial harm' should be weighed against the public benefits of the proposal. Such benefits that have been put to me include housing supply and choice, affordable housing, public open space provision, economic considerations, supporting rural communities and the accessibility of the site.
25. However, I am mindful that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The significance of the setting of The Church of St John The Baptist would be much diminished. Overall, the public benefits would not outweigh the 'less than substantial harm' to the designated heritage asset. The proposal would not comply with the policies in the revised Framework in this regard.

Listed Buildings – The Old Vicarage, Chest Tombs and Lych Gate

26. The Old Vicarage, the Chest Tombs and the Lych Gate are all grade II listed. The Old Vicarage lies close to the church and at a lower land level, although still higher than Church Lane. It is a building of a not insignificant size and whilst it has been the subject of renovation, it is well preserved. The stone Chest Tombs are enclosed in ornate metal railings and are located in close proximity to the church. The Lych Gate lies at the entrance to the churchyard and is typical in form for such a structure with a timber frame and a gabled tiled roof.
27. The significance of these assets individually relates more directly to the church itself because of the respective historical association, rather than the rural surroundings. Hence, I find their settings to be more constrained. Both the Chest Tombs and the Lych Gate are modest structures and contained within

the churchyard or at its entrance. The Old Vicarage is more broadly visible, including from across the site, but there is not the same historical significance of the rural landscape as with the church. Matters of their group significance would also relate to their association with the church. The proposal would not therefore unduly impact upon the significance of their settings.

28. I conclude that the proposal would preserve the setting of The Old Vicarage, the Chest Tombs and the Lych Gate, in accordance with Section 66(1). In this regard, it would comply with Policy DM8 and no harm would arise by way of how the revised Framework considers the potential impacts on the significance of designated heritage assets.

Biodiversity

29. The evidence there is on the biodiversity value of the site is of a limited nature. Whilst the appellant considers the site to be of a low ecological value, it is not clear what such a statement is based on. What evidence I do have appears largely anecdotal.
30. That the site is not the subject of a protective ecological designation does not mean that the natural features of the site may not have value as habitat or that protected species are not present. In the case of the latter, the presence or otherwise of protected species, and the extent that they may be affected by the proposed development must be established before a planning permission is granted. Else, all relevant material considerations may not have been addressed in making a decision, whether in relation to construction or the operational development itself. It is not a matter which can be left to a planning condition.
31. The intended biodiversity measures would include native hedgerows and tree planting, as well as the creation of community gardens, open space and landscaping. Again, what these are based on is not evident in the absence of a substantive appraisal of the ecological value of the site. I would accept that the creation of the access would not require the removal of trees and hedgerows, but this would not account for the rest of the site.
32. In the absence of evidence to the contrary, I conclude that the proposal would have an unacceptable effect on biodiversity interests. Hence, it would not comply with Policy DM9 of the DPD which states that proposals will be expected to take opportunities to restore or enhance habitats and species' populations and to demonstrate that they will not adversely affect or result in the loss of features of recognised importance. It would also not accord with paragraph 174 of the revised Framework where it refers to minimising impacts on and providing net gains for biodiversity.

Flood Risk and Drainage

33. The FRA identifies that the part of the site nearest to Church Lane is at a medium risk of surface water flooding. Interested parties have also referred to flooding events that have occurred in the village. A beck runs alongside Church Lane and it lies at the bottom of rising land leading up to an escarpment above the church. Both Policy DM12 of the DPD and Policy 5 of the NP refer to problems of surface water run-off and flooding in the village.
34. The FRA proposes maintaining existing flow routes and siting the proposed dwellings outside of the area that is at risk of flooding. It also identifies an

opportunity to provide additional storage and attenuation of flood water in the area indicatively designated as community allotments and a parkland walk.

35. Surface water would also be discharged at a controlled rate to a local watercourse. Concerning whether this would exacerbate flood risk, the FRA details additional measures on the site by way of storage to lower discharge rates, as well as controlled rainwater harvesting and the use of permeable surfaces.
36. Overall, the FRA provides sufficient evidence to address surface water drainage matters. In the event that I was minded to allow the appeal, the recommended mitigation measures could be dealt with by way of a suitably worded planning condition.
37. On this basis, I conclude that the proposal would not have an unacceptable effect on flood risk, in particular related to surface water drainage. Therefore, it would comply with Policy DM12 where it states that proposals for new development (other than minor extensions) in Clarborough, amongst other settlements, will only be supported where it is demonstrated to the Council's satisfaction that it will not exacerbate existing land drainage and sewerage problems.
38. The proposal would also comply with Policy 5 where it concerns not having a detrimental impact on surface water run-off and sewage discharge networks in the village. It would also accord with paragraph 167 of the revised Framework where it states that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere.

Housing Mix

39. Policy 3 of the NP highlights a need for smaller dwellings and the evidence which supports such an approach is set out in the supporting text to the policy. This text also points to a different site in the village providing a mix, but the policy is also of relevance to other proposals for housing which come forward in the village.
40. The Council's concerns on housing mix relate to the indicative layout, which it considers shows substantial sized detached dwellings. The appellant envisages that the dwellings would be single storey and has submitted indicative floor plans with the appeal which show 2 bedroom properties. As neither layout and scale are before me, the indicative layout and floor plans have a limited bearing.
41. Housing mix is thus a matter which could be more ably addressed at a reserved matters stage because the layout and scale would form part of such a submission. There is not a compelling reason why it needs to be established at this outline stage in this case, based on the evidence before me.
42. As such, the proposal would not have an unacceptable effect on housing mix. It would comply with Policy 3 because it would not prevent a housing mix that reflects the demonstrable need for smaller dwellings and for housing need to be taken account of.

Other Matters

43. Paragraph 72 of the revised Framework states that local planning authorities should support the development of entry-level exception sites. Such support is not though unqualified. As the proposal would not preserve the setting of The Church of St John The Baptist, it would compromise the protection given to an asset of particular importance. It would also not comply with local design policies and standards due to the conflict with Policies DM4 and DM9 of the DPD, and with Policies 2 and 4 of the NP, as well as the LCA. Paragraph 72 does not lend support to the proposal.
44. Similarly, the presumption in favour of sustainable development as is set out in paragraph 11 of the revised Framework does not apply. Even if the Council's development plan policies are deemed out of date as has been suggested by the appellant, the application of policies in this Framework that protect areas or assets of particular importance, related to The Church of St John The Baptist as a designated heritage asset, provide a clear reason for refusing the development proposed
45. The appellant has stated that the proposal would take the form of affordable housing consisting of starter homes. There is some evidence before me in relation to the need in the Council area for such housing. The appellant has submitted a draft Section 106 Agreement which includes affordable housing. However, it is not complete, dated or signed, amongst other matters. It would not secure affordable housing and so it attracts limited weight in my decision.
46. The proposal would result in an addition of up to 10 units to housing supply. It would also be intended to provide family accommodation and open space provision on-site, as well as improving the existing range and mix of homes, services and facilities. There would be economic development related opportunities. It would support the vitality of rural communities and be in a location that is accessible to local services other than by means of the private car. The provision of affordable housing would not though be a benefit because it would not be secured. The benefits attract moderate weight.
47. In relation to the adverse impacts of the proposal, these concern the unacceptable effect on the character and appearance of the area, that it would not preserve the setting of a listed building, The Church of St John The Baptist, and that it would have an unacceptable effect on biodiversity interests. All other matters attract neutral weight. I find the harm, when taken together, to be significant and it would outweigh the benefits.

Conclusion

48. I have considered all matters that have been raised, but the benefits that would arise would not outweigh the harm caused by the proposal. For these reasons, I conclude that the proposal conflicts with the development plan when taken as a whole and there are no material considerations to outweigh this conflict. Therefore, the appeal should be dismissed.

Darren Hendley

INSPECTOR