

Appeal Decision

Site visit made on 8 March 2022

by C McDonagh BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 March 2022

Appeal Ref: APP/Y2003/W/21/3284175

The Old Cottage, 32 Church Street, Elsham DN20 0RG

- 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 Ms Jane Leach against the decision of North Lincolnshire Council.
 - The application Ref PA/2021/68, dated 15 January 2021, was refused by notice dated 10 September 2021.
 - The development proposed is the erection of 1 no. detached dwelling with detached double garage.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Ms Jane Leach against North Lincolnshire Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are whether the proposal would be in a suitable location with regard to the spatial strategy of the development plan area, and the effects of the proposal on highway safety.

Reasons

Whether Suitable Location

4. The appeal site is located adjacent No.32 Church Street and is enclosed on all sides by property boundaries as well as Front Street. It is located outside of the defined settlement boundary of Elsham and for planning purposes is located in the countryside. Although the appellant argues that the development limits for settlements are outdated having been drawn in 2003, it is not my role to re-draw them.
5. Policies CS2, CS3 and CS8 of the CS¹ advise that development that takes place outside the defined development limits of settlements or in rural settlements in the countryside will be restricted. Only development which is essential to the functioning of the countryside will be allowed to take place.
6. Policy RD2 of the LP² also advises that development in the open countryside will be strictly controlled. A list of exceptions is given which are generally

¹ North Lincolnshire Local Development Framework Core Strategy (Adopted June 2011)

² North Lincolnshire Local Plan (Adopted May 2003)

considered acceptable and contribute to the general function of the countryside. The proposal would not meet any of these exceptions.

7. Paragraph 79 of the National Planning Policy Framework (the Framework) advises that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Where there are groups of smaller settlements, development in one village may support services in a village nearby.
8. Elsham has a very limited range of services and facilities. This includes a church, village hall and children's play park within a reasonable walking distance. Although I am informed of a daily bus route to Brigg and an on-demand bus service, I have no substantive details of these before me such as how frequent the scheduled service is or how long these journeys would take. There is a service station approximately 1.2 miles from the appeal site, which includes a coffee shop and convenience store. I am also informed of a golf club and country park and an activity centre. However, journeys to these would be along narrow and unlit country roads meaning they would be undertaken only by more experienced and confident cyclists while walking to any of these would be unlikely.
9. Consequently, it is unrealistic to expect future residents to regularly choose to walk to these facilities from the appeal site. Anyone living here would be highly likely to use private transport as this would be an easier and more convenient way to access the services and facilities, even if they occasionally chose to walk or cycle. As such, it seems to me there would still be a primary reliance on private vehicles for access to services and facilities where future occupiers would be heavily dependent on car use to meet day to day needs. Although the development of one dwelling may not result in substantial increases in trip numbers, the reliance on the private vehicle is the least sustainable travel option.
10. The site relates more closely to the built environment of Elsham than the open countryside beyond. For the purposes of the spatial strategy for the plan area, which utilises settlement boundaries to guide development, the appeal site is accepted to be in the countryside. However, visually it appears part of the built form of the village being adjacent several properties and on the same side as Front Street. Moreover, I agree that the appeal site would not be isolated in the context of paragraph 80 of the Framework. Although I am directed to relevant case law³ regarding avoiding the development of isolated homes in the countryside, the Council does not take this stance as is made clear in their appeal statement.
11. For the above reasons, I conclude that the appeal site is not in a suitable location for the proposal with regard to accessibility to services and facilities. This would be contrary to Policies CS2, CS3 and CS8 of the CS and RD2 of the LP. These seek to ensure development be located to minimise the need to travel and to encourage any journeys that remain necessary to be possible by walking, cycling and public transport.

³ Braintree District Council v Secretary of State for Communities and Local Government & Ors [2018] EWCA Civ 610 (28 March 2018)

Highway Safety

12. The proposals include a new access to the site taken from Front Street, which is demonstrated on the Proposed Site Plan (Drawing No. RD:4722 / 10). The concerns of the Council and interested parties are focussed on the incline of Front Street, which rises from the appeal site, the width of both the new access and Front Street, and the location of the access relative to a bend in the road.
13. The Proposed Site Plan demonstrates Front Street rises to the north. However, it would not be unusual for this to occur and there is no indication as to why a driver could not access or egress the site safely because of the incline. Moreover, the site plan indicates the width of the access would conform with guidance in the Manual for Streets (MfS).
14. There is also dispute regarding the distance of the bend in the road to the south of the appeal site. However, this is demonstrated on the site plan as achievable to the south at a distance of 2.4m x 43m. Although this is not shown on the plan to the north due to the scale, from my own observations on the site visit there is good visibility in this direction which would exceed the 43m required. As such I have no reason to doubt that the proposal could achieve the required visibility in each direction for egressing vehicles.
15. There is further dispute as to the width of Front Street adjacent the appeal site, with measurements varying from 3.9m to 4.5m against a recommended 4.1m width in MfS to allow two cars to pass one another. I have no conclusive evidence either way. Regardless of the actual width, this is an existing situation whereby two vehicles could meet in the road at this location. Given the proposal is for 1 dwelling, the number of additional vehicular movements would be minimal during a typical day, which is estimated at 4-5 for the 3-bedroom property. The speed limit on this road is 30 miles per hour and vehicles turning towards the appeal site when travelling along Front Street would have adequate time to stop for egressing vehicles turning out of the appeal site. As such, there is nothing before me to indicate that the proposal, and any additional vehicular movements emanating from it, would harm highway safety.
16. Although reference is made to two cars passing on the driveway of the property, I have not been made aware of this requirement in guidance or policy and as such, I have not considered it further. The site plan indicates there would be a larger area in front of the garage than the width of the driveway closer to Front Street. This may be difficult to turn around within the site so that a vehicle can exit in a forward gear. The more likely scenario would see a driver reverse into the driveway so that they could leave forwards. Given the visibility of the road in both directions from the access, 30mph speed limit and room to pull in to the side and allow another vehicle to pass if necessary, I see no reason why this manoeuvre could not be undertaken safely.
17. The Framework requires in paragraph 112 that development should allow for the efficient delivery of goods, and access by service and emergency vehicles. However, the efficient delivery of goods would likely entail parking outside the property, which I observed on the site visit was possible as two service vans were parked on the embankment. Moreover, there is nothing before me to substantiate the concerns that an emergency vehicle could not access the property.

18. Similarly, there is some concern that the location could see further development of dwellings and therefore increase traffic in the area. There is nothing before me to indicate this would be the case, and I can only assess the proposal on its own merits. It is also claimed that vehicles regularly travel at speeds in excess of the limit on Front Street. While I have no reason to doubt local concerns that this may occur, I have no evidence of this and see no reason to require the visibility splays to be increased in distance.
19. In addition, the Council's Highways advisor did not object to the proposal subject to a condition. Based on the foregoing, there is nothing before me to substantiate the concerns of the Council or interested parties regarding the effects of the development on highway safety and I see no reason to disagree with the findings of the appellant's Highways Technical Note. Accordingly, the proposal would comply with Policies T2 and H5 of the LP. These seek to ensure any development has an adequate and appropriately designed access which will not create any traffic or road safety hazard.

Other Matters

20. I have had regard to concerns raised by the appellant about the way that the Council handled the application, including the pre-application advice received and the deferral of the application to a later committee meeting. However, this does not affect the planning merits of the case. I have considered this appeal proposal on its own merits and any complaints should be raised with the Council directly.
21. The Council has concluded the proposal would not harm the setting of Grade I listed 'All Saints Church' and Grade II Listed '1 Church Street'. Based on all that I have seen and read, I see no reason to come to a different conclusion and the proposal would therefore preserve the significance and special interest of the listed building in accordance with Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act), which requires the decision maker to pay special attention to the desirability of preserving the setting of a Listed Building.

Planning Balance

22. The Council can demonstrate a 5-year supply of housing land. Although the appellant disputes the deliverability of some of these sites, I have nothing substantive before me to demonstrate that there would be a shortfall. Although I agree having a 5-year housing land supply is not a ceiling to further development, even if the application of paragraph 11(d) of the Framework was necessary, consideration must be had as to whether the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
23. That being said, the Government's objective is to significantly boost the supply of housing and the proposal would provide a new dwelling to the Council's existing stock. It is also claimed that the ward within which the appeal site is located has a lack of 3-bedroom houses and the proposal would contribute to this need. However, I do not have a copy of the Housing Market Assessment from which this information is taken. There would also be some biodiversity enhancements to the site due to native planting and tree replacements, although this is needed to meet other policy requirements and the overarching

aims of the Framework. Overall, these matters carry some positive weight in favour of the proposal.

24. I have concluded that the proposal would not harm highway safety and concurred with the Council in their determination that there would be no harm to the settings of nearby Listed Buildings. These matters are not disputed, although a lack of harm would be neutral in the planning balance rather than weighing in favour.
25. Conversely, I have concluded that the proposal would not constitute a suitable location for the scheme and results in harm in achieving the planned distribution of development across the area with regard to access to services and facilities. This attracts significant weight against the scheme and the harm would outweigh the benefits associated with the proposed development.
26. Therefore, taking into account all these matters, the adverse impacts of the development would significantly outweigh the benefits when assessed against the policies in the LP and the aims of the Framework.

Conclusion

27. The proposal would not be located in a suitable location having regard to the spatial strategy for the plan area. As such it would conflict with the development plan taken as a whole, despite adherence to other policies. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

C McDonagh

INSPECTOR