



Appeal Decision

Site visit made on 24 January 2023

by J Downs BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 April 2023

Appeal Ref: APP/D2510/W/22/3304739

Land Between Manor and Church Lane, East Keal, Spilsby PE23 4AT

- 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 D Beamish against the decision of East Lindsey District Council.
 - The application Ref S/045/01392/21, dated 21 June 2021, was refused by notice dated 9 February 2022.
 - The development proposed is described as 'Outline planning permission for up to six dwellings with detached garages, with access to be considered'.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal is made in outline with access to be considered at this stage. The Council confirmed it considered the position of the access road as part of the submitted access details. The appellant did not provide any comments on this point. I have therefore considered the position of the road as part of the access details to be considered as part of this appeal.
3. All other matters, relating to appearance, landscaping, layout, and scale, were reserved for future approval. The planning application also included two drawings illustrating how the site could potentially be developed for six dwellings together with an access road. I have noted these drawings, however, although they are not marked as such because layout is a reserved matter, I have treated these drawings as indicative only.
4. The appellant's statement did not contain the appendices, and these were not provided following a request for them to be provided. I have determined the appeal on the basis of the submitted information.
5. The Council, the appellant and an interested party refer to the adjacent listed building as East Keal Manor. The listing description [List Entry no:1359707] refers to the property as Manor Farmhouse (formerly listed as Manor House). For clarity, I have continued to refer to it as East Keal Manor.

Main Issues

6. The main issues are:
 - the whether the site is a suitable location for housing, with respect to the Council's planned pattern of growth and the effect on the character and appearance of the area;

- the effect of the proposed development on the setting of the nearby Grade II listed building, East Keal Manor, and the significance of potential archaeological remains; and
- the effect on protected trees.

Reasons

7. The appeal site forms part of a larger agricultural field. It sits adjacent to the A16, with trees and hedgerows along this boundary. Access to the site would be taken from Church Lane, in proximity to the dwellings and village shop. There is a public right of way along the north-west boundary of the site, beyond which sits the Grade II Listed East Keal Manor and other farm buildings.

Suitable location

8. East Lindsey Local Plan Core Strategy adopted July 2018 (ELLP) Policy SP1 defines East Keal as a medium village in the settlement pattern. ELLP Policy SP4 sets locally specific criteria in which housing would be allowed in inland medium villages.
9. The first of these, as the policy relates to this appeal, is that the development would be in an appropriate location within the developed footprint of the settlement as infill frontage development of no more than two dwellings. ELLP Policy SP4 defines the developed footprint as 'the continuous built form of the settlement and excludes individual buildings or groups of dispersed buildings which are detached from the continuous built up area of the settlement'.
10. From my observations at my site visit, the dwellings on Church Lane along with their boundary planting provide a strong built edge to East Keal. East Keal Manor and the dwelling on the opposite side of the A16 are both detached from East Keal by substantial open fields, with the former lying beyond the road sign identifying the settlement and outside the 30mph speed limit applied to the built up area. As such, they do not lie within its developed footprint as defined by ELLP Policy SP4. Due to the distance between the properties on Church Lane and East Keal Manor, the proposal would not constitute infill development as it would normally be understood, particularly given that ELLP Policy SP4 envisages infill development as being no more than 2 dwellings.
11. The site has a rural character due to its undeveloped nature and the surrounding fields, notwithstanding the development along Church Lane. The position of the access road, fixed as part of the access arrangements to be considered at this stage, together with the shape and size of the appeal site, which would restrict the number of possible configurations for setting out dwellings on the site. This would result in the development most likely having a linear appearance along the A16 as suggested by the submitted indicative drawings. This would not be well related to the existing built form of East Keal which predominantly sits along Fen Lane. It would also inevitably have an urbanising effect and encroach on the rural/ agricultural setting of the village which would harm the character and appearance of the area.
12. The second of the circumstances set out in ELLP Policy SP4 specifically requires compliance with Clause 2 of ELLP Policy SP25 which seeks to protect Green Infrastructure. The appeal site is predominantly agricultural and, as the supporting text of the policy acknowledges, agricultural land is generally not

managed for wildlife or public access. Although there is a Public Right of Way which bisects the site, the Council has not expressed any concerns with respect to it. In these circumstances, I consider ELLP Policy SP25 is not contravened.

13. I therefore conclude that the site would not be a suitable location for housing with respect to the Council's planned pattern of growth and the effect on the character and appearance of the area. It would not comply with ELLP Policy SP4 which seeks to ensure development is focussed within the most sustainable settlements. The lack of conflict with ELLP Policy SP25 does not positively support this location for housing.

Heritage assets

14. East Keal Manor is a Grade II listed building (LB) which lies adjacent to the site. It was listed in 1967 and is a two storey farmhouse, constructed in brick and render, dating from the early eighteenth century with later nineteenth century alterations. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 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. I am also mindful of the advice in the National Planning Policy Framework (the Framework) that significant weight should be attached to any harm to designated heritage assets.
15. The significance of the LB as it relates to this appeal is derived from its historic fabric and its relationship to the surrounding farmland which have both evidential and aesthetic value. The appeal site provides an agricultural setting for the LB on a prominent approach and contributes to the understanding and appreciation of its significance. The loss of this would be harmful to the significance of the LB by severing it from its agricultural setting. This harm would occur from residential development of the appeal site, particularly given the linear form likely to arise given the position of the access road. Given that the appeal site would affect only part of the setting of the LB, albeit a very prominent part that separates it from the built up area of the village, this harm would be less than substantial. Paragraph 202 of the Framework sets out that in such circumstances, this harm should be weighed against the public benefits of the proposal.
16. The public benefits of the proposed development I have identified are the contribution to the supply of housing, and the economic benefits associated with this during the construction and occupation stages of the development. However, these benefits would be limited due to the small scale of the development and would not outweigh the harm I have identified and to which I give considerable importance and weight.
17. The evidence before me from the Council suggests that there is a high likelihood of undiscovered archaeological remains being present at the site, based on records contained in the Historic Environment Record. The significance of any remains would be in their archaeological interest and the addition to the knowledge and understanding of historic occupation in the area. The Council contends that the development of the site would result in total or partial loss of any surviving archaeological remains. The appellant does not dispute that the site has archaeological potential.

18. The appellant acknowledges they have not carried out any field evaluations due to the cost and their understanding that the Council intended to refuse the application regardless of the outcome of any surveys. I understand why the appellant has taken this stance. Nonetheless, this leaves me with insufficient evidence to establish the likely effect of development on the significance of any archaeological remains. This is contrary to the requirements of paragraph 194 of the Framework which requires that developers submit an appropriate desk based assessment and where necessary a field evaluation where a site has the potential to include heritage assets with archaeological interest.
19. I therefore conclude that the appeal proposal would have an adverse effect on the setting of the nearby listed building contrary to ELLP Policy SP11 which requires development to have particular regard to the setting of the District's Listed Buildings. There is insufficient evidence before me to establish the likely effect on the significance of potential archaeological remains, contrary to ELLP Policy SP11 which requires development to not harm the site or setting of locally significant archaeological sites and paragraph 194 of the Framework which requires field evaluations where necessary.

Trees

20. The site includes two trees which are protected by Tree Protection Order East Keal No 1 (the TPO). An arboricultural report was submitted to the Council during the application process. A copy of this was not submitted with the appeal. However, the Council's evidence suggests that this was inconsistent as to whether the protected trees would be felled as part of the proposed development. The submitted indicative layout showed the loss of trees close to the access point for the development but did not show the trees protected by the TPO.
21. However, layout and landscaping are reserved matters. The site is of sufficient scale that dwellings could be sited outside the branch and likely root spread areas of those trees. Their retention, and tree protection measures during the construction process could be secured by condition. These measures would not unreasonably restrict the development being proposed and I am satisfied that it would be possible for a detailed layout and design to be developed which would not result in the loss of the protected trees. It would be reasonable to impose these conditions on any outline permission granted as they would be factors that would influence how the site could be developed.
22. I therefore conclude that the development would not adversely affect protected trees on the site. It would therefore be in accordance with ELLP Policy SP10 which requires development to provide on-site landscaping to integrate the development into its wider surroundings and paragraph 131 of the Framework which seeks to retain existing trees wherever possible.

Conclusion

23. I have found the appeal proposal would not be in a suitable location for development, would have an adverse effect on the character and appearance of the area, would harm the setting of the LB and does not include sufficient information to allow the effect on archaeological remains to be properly considered. While the effect on protected trees could be addressed by condition, this would amount to a lack of harm and would therefore be neutral in the decision.

24. I therefore conclude that the appeal proposal would conflict with the development plan when read as a whole. There are no material considerations of sufficient weight to suggest the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

J Downs

INSPECTOR