



Appeal Decision

Site visit made on 18 April 2023

by L Fleming BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 May 2023

Appeal Ref: APP/V2635/W/22/3302622

18 Tuesday Market Place, King's Lynn PE30 1JW

- 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 Gain SPVKL Ltd against the decision of King's Lynn and West Norfolk Borough Council.
 - The application Ref 22/00028/F, dated 17 December 2021, was refused by notice dated 11 May 2022.
 - The development proposed is add penthouse to rear extension.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effect of the proposal on the character and appearance of the area bearing in mind it would be within the King's Lynn St Nicholas Conservation Area and within the setting of the grade II* listed Bishops Lynn House, 18, Tuesday Market Place.
 - Whether the proposal represents an acceptable form of development having regard to its flood zone.

Reasons

Character and appearance

3. The appeal site is a large modern building attached to the grade II* listed Bishops Lynn House, 18, Tuesday Market Place (Bishops Lynn House). Bishops Lynn House fronts Tuesday Market Place and is within the King's Lynn St Nicholas Conservation Area (CA). Although attached to Bishops Lynn House, the parties agree the appeal building is not listed, I find no reason to question this and I have considered the proposal on that basis.
4. The Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires special regard to be given to the desirability of preserving a listed building or its setting and any features of architectural or historic interest it possesses. The same act also requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of a Conservation Area. Furthermore, paragraph 199 of the National Planning Policy Framework (the Framework) states that when considering the impact of new development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

Significance of Bishops Lynn House and the CA

5. Bishops Lynn House was once merchant's houses and the former headquarters of the Bagge family of merchants. The south part of the building was rebuilt in 1725 and the north part rebuilt in 1803-4. It is three storey, constructed of red and brown brick with a central panelled door in brick doorcase with Tuscan pilasters and metope frieze below pediment. Formal recessed sash windows with gauged arches, heavy cornice above the first-floor windows and a parapet concealing a hipped slate roof give the main façade a Georgian character. The building also has a rich variety of internal architectural features of varying ages, including late C14 or C16 vaulted cellars. Although, now in mixed use and much altered over time, insofar as is relevant to this appeal the significance of the grade II* listed building is derived from its prominent marketplace location, its former use as merchant's houses and its high quality traditional architectural detailing.
6. The CA comprises an urban area of dwellings and commercial properties between the River Great Ouse (the river) and the King's Lynn Town Centre. However, St Nicholas was founded in around 1145 as a new town. It was developed on marshy ground, in a grid pattern evolving to reflect the changing location and economic role of the river. The architecture is varied, with merchant houses, former warehouses and medieval and Georgian architectural features of particular note. Insofar as is relevant to this case, the significance of the CA is founded on the variety and quality of the architecture and its economic and functional relationship with the river.

Effect on the significance of Bishops Lynn House and the CA

7. The proposal would extend the appeal building upwards creating an additional floor and a penthouse apartment.
8. I acknowledge, the existing square topped roof form of the appeal building is of limited architectural merit. I note the varied roof form of the properties nearby. I also note the proposed windows would be set back and the proposed upwards extension would be finished in glass, white panels, bronzed aluminium and set behind a glazed balustrade. I have considered the drawings which show a line of sight from Tuesday Market Place. I acknowledge the rooftop equipment box. I have also considered the extensions to the Corn Exchange nearby.
9. However, the appeal building is located on the corner of Tuesday Market Place and Page Stair Lane which affords wide ranging views of the appeal building in contrast with the limited views offered by the straight narrow lanes either side of the Corn Exchange. Whilst the attempt to design a contemporary upward extension built from high quality materials is acknowledged, the fact remains, the proposed highly modern extension would be significantly taller than Bishops Lynn House.
10. The proposed modern shallow pitched roof would be visible in the background of Bishops Lynn House from a variety of vantage points, particularly upon entering Tuesday Market Place from St Nicholas Street or walking along High Street. I do not accept it would be discrete, or inconspicuous, instead, in my view, it would prominently loom over Bishops Lynn House and appear in stark conflict with the formal high quality traditional architectural detailing of the grade II* listed building. This conflict would harm the setting and significance

of the grade II* listed building. That harm to the setting and significance of a historical and traditional building would also be within the CA. The harm would be widely visible, particularly in and around the busy and historically important Tuesday Market Place. It therefore follows that I find the proposal would also fail to preserve the character, appearance and significance of the CA as a whole.

11. The harm I have identified to the significance of the grade II* Bishops Lynn House and the CA would in both cases be less than substantial towards the lower end of the range. In which case paragraph 202 of the Framework requires it to be weighed against the public benefits of the proposals, including where appropriate, securing optimum viable use. I will return to this below as part of my overall planning balance.

Flood Risk

12. The appellant's Flood Risk Assessment (FRA) identifies the appeal site as being in Flood Zone 2. Paragraphs 159, 162 and 163 of the Framework make clear that inappropriate development in areas at risk of flooding should be avoided by steering vulnerable development away from areas at highest risk. Only after applying this sequential approach should consideration be given, where necessary, to an exception test.
13. The proposed development would provide one new home, increasing the number of people that would be living in an area at risk of flooding. Even if I agreed with the Council that the sequential test was overcome, the exception test would still need to be passed.
14. Paragraph 164 of the Framework states to pass the exception test it should be demonstrated that (a) the development would provide wider sustainability benefits to the community that outweigh the flood risk; and (b) the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.
15. I acknowledge the Environment Agency have not objected to the proposal but have recommended the flood mitigation measures in the FRA are adhered to. The Council have also not raised any concerns with regard to the FRA and have commented that the FRA demonstrates paragraph 164(b) of the Framework is met. There is no substantive evidence before me which allows me to form any different conclusion.
16. However, the proposal would only provide one additional dwelling and there is no substantive evidence before me which demonstrates the appeal proposal would provide any other wider significant sustainability benefits to the community. Indeed, I have already found the proposal would harm the character and appearance of the area and would result in less than substantial harm to the grade II* Bishops Lynn House and the CA.
17. Overall, on the basis of the limited evidence before me and without substantive evidence to the contrary I am led to the conclusion that the exceptions test would not be passed. The proposed development would not therefore represent an acceptable form of development having regard to its flood zone. For these reasons the proposal conflicts with Policies CS01 and CS08 of the King's Lynn & West Norfolk Borough Council Local Development Framework –

Core Strategy (2011) (CS) and Policy DM 1 of the King's Lynn & West Norfolk Borough Council Site Allocations and Development Management Policies Plan (2016) (DMP) which taken together seek to avoid development in areas at risk of flooding. It is also in conflict with paragraphs 159 and 162 to 164 of the Framework.

Planning and heritage balance

18. The proposal would provide a new dwelling in a location where services and facilities could be easily accessed and where dwellings are needed which is a significant public benefit. There would be economic benefits associated with construction as well as benefits to the local economy through additional labour force and local expenditure. Even so, all the public benefits combined, are insufficient to outweigh the great weight I must attach to the less than substantial harm I have identified to the designated heritage assets. The harm I have identified with regard to flood risk only adds further weight against the proposal.
19. Overall, for the reasons given the appeal scheme would harm the character, appearance and significance of the CA and the setting and significance of the grade II* Bishops Lynn House and that harm is not outweighed by public benefits. Thus, for these reasons the scheme is also in conflict with paragraphs 199 and 202 of the Framework and fails to accord with Policies CS01, CS03, CS08, CS12 of the CS and Policies DM 1 and DM 15 of the DMP. These policies, among other things, seek to ensure good design and that proposals protect and, where possible, enhance the historic environment and heritage assets.

Conclusion

20. For the reasons given above and taking into account all other matters raised, I conclude that the appeal should be dismissed.

L Fleming

INSPECTOR