



Appeal Decision

Site visit made on 12 April 2023

by J Hobbs MRTPI MCD BSc (hons)

an Inspector appointed by the Secretary of State

Decision date: 18 October 2023

Appeal Ref: APP/Y2003/W/22/3312031

Briar Lodge, Silver Street, Barrow-upon-Humber, Lincolnshire DN19 7DN

- 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 James Pearson against the decision of North Lincolnshire Council.
 - The application Ref PA/2022/1158, dated 16 June 2022, was refused by notice dated 3 November 2022.
 - The development proposed is demolition of existing dwelling and construction of 6no. new dwelling houses, including a new entrance, site access road and associated landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The site address was referred to as both "Brier Lodge" and "Briar Lodge" on planning application documents. It has been confirmed in correspondence with the appellant that the correct address is "Briar Lodge".
3. Since the proposal relates to the setting of a listed building, I have had special regard to section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
4. After the submission of this appeal, the council published the North Lincolnshire Five Year Housing Land Supply Statement July 2023. Within this document the council demonstrate 6 years 10 months' supply of deliverable housing land. Previously parties agreed the supply of deliverable housing land was less than 5 years supply of deliverable housing land. In the interest of fairness and to ensure no parties were prejudiced, I wrote to the appellant and invited a response to the new evidence. The appellant has not supplied any substantive evidence to dispute the council's findings.

Main Issues

5. The main issues of the appeal are:
 - the effect of the proposed development on the character and appearance of the area; and,
 - whether the proposed development would provide acceptable living conditions for future occupiers of plots 2 and 3, with regard to sunlight and, all plots, with regard to appropriate external space.

Reasons

Character and appearance

6. The appeal site fronts onto Silver Street and is largely free from development other than Briar Lodge which is immediately adjacent to the boundary fronting the road. The appeal site comprises overgrown grassland with large trees and mature vegetation along the boundaries. It is acknowledged by the appellant and the council that Briar Lodge has fallen into a state of disrepair, there is also security fencing around the site entrance.
7. The appeal site is located on a section of Silver Street where there is a transition from a denser pattern of development toward Town Street and properties which are set within more spacious grounds toward Ferry Road. Many of the properties toward Ferry Road are set back from the road and accommodate large gardens which contribute to a spacious and verdant character. It is also adjacent to Highfields and in proximity to Blacksmiths Close which are much denser developments. Notwithstanding, the site would be largely viewed against the developments in more spacious grounds.
8. The six proposed dwellings would be sited around a cul-de-sac leading from Silver Street. The range of plot sizes varies significantly, plots 1 and 3 are more spacious than the other plots. Nevertheless, the size of each of the plots, including 1 and 3, are significantly smaller than the development to the west.
9. The footprint to plot size ratio for each of the plots is also significantly less than the development to the west, but it is akin to the development on Highfields and Blacksmiths Close. Nevertheless, the siting of the houses to the front of the plots with driveways to the side and very little separation between the properties would make them appear cramped, when compared to all neighbouring development.
10. Likewise, most of the plots would incorporate very little site frontage, including plot 5 which is almost non-existent. This is at odds with the prevailing pattern of development of the neighbouring properties.
11. For all the reasons given above, the distinctiveness of the prevailing pattern of development to the west would be undermined. Therefore, the proposed dwellings would appear incongruent when viewed alongside neighbouring development.
12. Policy H9 of the North Lincolnshire Local Plan, including policies for Minerals and Waste (LP), May 2003, identifies that a density of at least 30 dwellings per hectare will be sought, unless there are overriding reasons relating to the surrounding built development. LP Policy H8 requires development to maintain the character of the area.
13. Whilst the proposed development would achieve a density of 30 dwellings per hectare, given the orientation of the appeal site, footprint to plot size ratios, siting of the proposed dwellings and modest plot sizes the properties would appear cramped. I therefore consider that the proposed development would be at odds with LP Policy H8, as it would not maintain the character of the area.
14. Given the proposed density, it would be in general accordance with LP Policy H9. However, in this instance, I conclude that overriding reasons exist, as it

- has not been demonstrated that 30 dwellings per hectare could be achieved without causing harm to the character and appearance of the area.
15. The retention of the large trees within the site which contribute to the character of the area is a benefit of the appeal scheme, but it does not lead me to an alternative conclusion on the overall effect of the proposed development on the character and appearance of the area.
 16. Briar Lodge is a non-designated heritage asset. It is unlikely to be used for residential purposes, or as an alternative use, without significant extension or alteration which would affect the significance of the asset. Given it has fallen into a state of disrepair and there is a lack of an obvious viable use without amendment or extension, it would be acceptable to demolish it if an appropriate historic record was made. If all the other aspects were satisfactory and I was allowing the appeal, I would attach a condition requiring a historic record of the building to be made and submitted to the council prior to its demolition.
 17. The nearby, Grade II listed, Welholme was listed in 1998 (ref.1376160). I find that the setting of the building, to be primarily associated with the pattern of residential development along Silver Street. The proposed development would introduce new residential development on Silver Street, which already accommodates properties constructed in different time periods of varying design. The appeal site is located some distance from Welholme and would be viewed alongside neighbouring residential development. I conclude that the proposal would preserve the special historic setting of the Grade II listed building.
 18. This is a resubmission of a previously refused scheme, but previous layouts have not been put before me. Regardless, the appeal proposal is assessed on its own merit.
 19. The proposed development would have a harmful effect on the character and appearance of the area. It would therefore be contrary to LP policies DS1, H5, H7 and H8, which require a high standard of design; development to be in keeping with the scale and character of the settlement; back land development to not affect the general quality and character of the area; and, residential development to incorporate a high standard of layout which maintains and possibly improve the character of the area.
 20. The appeal scheme would also be contrary to policies CS5 and CS7 of the North Lincolnshire Local Development Framework, People, Places, Spaces, Core Strategy (CS), June 2011. These policies require all new development in North Lincolnshire to be well designed and appropriate for their context; and the density of new development should be in keeping with the character of the area.

Living conditions

21. I have not been provided with a daylight/sunlight assessment or alternative evidence on the potential extent of overshadowing on site. However, during my site visit I observed a number of very large trees along the border with Evergreen Cottage which are located on third party land and therefore outside of the control of the appellant.

22. Whilst the proposed development is sited further away from the trees than the previously dismissed scheme, the trees would still overshadow the appeal site due to its orientation and the size of the trees. The effect of the overshadowing would be experienced most in the rear gardens of plots 2 and 3.
23. I acknowledge that the proposed dwelling on plot 2 has been rotated from the previously dismissed scheme to reduce the extent of the overshadowing on the property. Nevertheless, the layout of plot 2 is such that two very large trees are located at one end of the garden with the parking area at the other end; as such, the most usable space of the rear garden would be immediately adjacent to the trees.
24. The proposed garden for plot 2 is modestly sized and given the size of the trees they would be a dominant feature. Due to the orientation of the plot, it is likely the rear garden would be at least partially overshadowed for most of the afternoon. This would lead to an unpleasant environment for future residents and would disincentivise them from using this space.
25. Plot 3 accommodates a larger garden and one that extends away from the trees close to the border. Whilst these trees would overshadow large parts of the garden for long periods of the day there would still be a good proportion of the garden that receives sunlight throughout most of the day. The proposed development would therefore provide acceptable living conditions for future occupiers of the dwelling within plot 3.
26. I have not been provided with external space standards that specify a minimum size of proposed garden space. The proposed gardens would be able to accommodate domestic paraphernalia such as clothes drying equipment and storage space. I therefore consider that the proposed external spaces would be of a practical size, even if they appear small compared to neighbouring properties.
27. I conclude that the proposed development would not provide acceptable living conditions for future occupiers of plot 2, with regard to a lack of sunlight. The appeal scheme would therefore be contrary to LP Policy H5 and CS Policy CS5 which require the layout of new housing developments to be in keeping and compatible with the amenity of the immediate environment; and, new development should consider the relationship between any building and the spaces around them.
28. Within the second reason for refusal the council stated that the proposed development was contrary to LP Policy DS1. However, LP Policy DS1 only refers to neighbouring living conditions and there is no clause relating to the future occupiers of any proposed development. The proposed development is therefore not contrary to this policy.

Other Matters

29. The net provision of five dwellings in an accessible and sustainable location, with adequate drainage in Flood Zone 1; an effective use of land on a site which has fallen into disrepair and may attract anti-social behaviour; incorporating a design which maximises solar gain; the provision of bird and bat boxes; as well as two car parking spaces per dwelling are benefits of the scheme. Nonetheless, these benefits do not mitigate the identified harm or lead

me to an alternative assessment on the overall acceptability of the appeal scheme.

30. The lack of an effect on neighbouring trees, none of the trees within the appeal site being subject to a Tree Protection Order and no objection from statutory consultees during the determination of the planning application are all considered to be neutral factors.

Conclusion

31. The proposed development conflicts with the development plan when considered as a whole and there are no material considerations, either individually or in combination, that outweigh the identified harm and associated development plan conflict.
32. Therefore, for the reasons given above I conclude that the appeal should be dismissed.

J Hobbs

INSPECTOR