



Appeal Decision

Site visit made on 12 February 2024

by Ian Radcliffe BSc(Hons) MRTPI MCIEH DMS

an Inspector appointed by the Secretary of State

Decision date: 27 March 2024

Appeal Ref: APP/Y2003/W/23/3324479

Land to the rear of 8b Old Brumby Street , Scunthorpe, North Lincolnshire, DN16 2DB

- 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 P Wright against the decision of North Lincolnshire Council.
 - The application Ref PA/2023/34, dated 11 January 2023, was refused by notice dated 21 April 2023.
 - The development proposed is a new single storey dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was submitted in outline, with only access to be determined at this stage. I have dealt with the appeal on this basis and I have taken the layout of development shown in the submitted proposed site layout into account as indicative in relation to my consideration of the principle of the development on the appeal site.
3. The revised National Planning Policy Framework ('the Framework') was published on 20 December 2023 after the statements in relation to this appeal had been exchanged and final comments made. However, as no changes were made to the conserving and enhancing the historic environment section of the Framework, and the other changes that were made are not material to this decision, the cases of the parties have not been prejudiced by not being able to comment on the revised Framework. I have therefore determined the appeal on the basis of the statements and comments that have been received.

Main Issue

4. The main issue in this appeal is the effect of the proposed development on the setting of Brumby House, a Grade II listed building.

Reasons

5. The appeal site is the rear half of the back garden serving 8b Old Brumby Street. As the site is located within Scunthorpe, residential development in principle is supported by the development plan, subject to other planning considerations.

Setting of Brumby House

6. Planning applications are determined in accordance with the development plan, unless material considerations indicate otherwise. The development plan for North Lincolnshire includes the North Lincolnshire Local Plan ('Local Plan') and

the North Lincolnshire Local Development Framework Core Strategy ('Core Strategy'). In requiring that new development protects the setting of listed buildings and resisting proposals that would damage their setting policy HE5 of the Local Plan and policy CS6 of the Core Strategy are relevant to the main issue.

7. The Framework is an important material consideration. It identifies that heritage assets are an irreplaceable resource. Paragraph 205 advises that when considering the impact of a proposed development on the significance of a designated heritage asset, such as a listed building, great weight should be given to the asset's conservation.
8. In the exercise of planning functions, the statutory test in relation to a listed building is that special regard shall be had to the desirability of preserving the building or its setting, or any features of special architectural or historic interest which it possesses.
9. Brumby House is a detached Grade II listed building dating from the start of the eighteenth century. It was re-fronted in the early nineteenth century and a rear extension was added later. With rendered walls constructed from local stone, a gabled pantile roof with stone coping and multi-paned sash windows its special interest and significance is historical and architectural. Although located within a residential area characterised by twentieth century housing the immediate setting of Brumby House is verdant and relatively unenclosed by buildings. As a result, when approaching the house along its shared drive, the building sits relatively comfortably in its surroundings in a manner that befits its special interest. Its setting therefore contributes to its significance.
10. Outbuildings to Brumby House were located on the northern side of the dwelling, but were demolished sometime after 1948. On the basis of the submitted plan it appears that, unlike the appeal proposal, these buildings were directly attached to the side of the house and so would have been read as part of the listed building. As a result, the past presence of these buildings is not a consideration of material weight in support of the proposed development.
11. On the basis of the Council's planning records, I recognise that outline approval was granted for residential development of housing on land to the rear of No 8b and neighbouring houses in 1961. This though occurred before Brumby House was listed. Whilst permission was subsequently granted for a bungalow on land immediately to the east of the appeal site around 1990, and a house was built on land to the rear of 10 Old Brumby Street further to the west at some point before that, it is a notable feature that the land between these two dwellings on the northern side of the Brumby House remained undeveloped other than for boundary treatments. In so doing, its verdant and relatively open setting appreciated in views along its shared drive was preserved.
12. The proposed bungalow would partly fill in the gap in built development on the northern side of the house. Whilst much of the existing planting along the front of the appeal site facing the flank of the listed building would be retained, the proposed bungalow would be visible in views from in front of Brumby House. In so doing it would urbanise and partly enclose the setting of the listed building to the detriment of its special interest.
13. It matters not that such views would only be available to people visiting Brumby House or the properties that make use of its shared private access. This is because the contribution that setting makes to the significance of a listed building includes private as well as public views.

14. Given that the harm would relate to the presence of a building large enough to be a detached bungalow, this harm could not be overcome by the control that would be exerted at reserved matters stage in relation to the scale, layout and appearance of the dwelling. It would also not be possible to successfully address this matter by landscaping which includes further planting, as the purpose of good design is to ensure that new development complements its surroundings rather than to hide it from view.
15. Residential permitted development rights would allow the appellant to construct single storey outbuildings on the appeal site up to 4m in height which is similar to the height of a bungalow. However, there is no reason before me to indicate that such development is likely to occur. Moreover, even if it did take place, this is not sufficient justification for a proposal which I have found would cause material harm to the setting of a listed building.
16. In support of the appeal, reference has been made to recent developments that have taken place within the setting of other listed buildings in Scunthorpe. However, caution must be exercised when drawing parallels between cases as circumstances are rarely directly comparable. In relation, for example, to development within the setting of the Grade II* listed former Church of St John, this listed building is located within the town centre. As a result, its setting is not comparable to that of Brumby House. Development within the vicinity of the Grade II listed Brumby Hall has also been referred to. However, as few details have been provided it is not possible to draw meaningful parallels with the appeal proposal. The fact that permission was granted for developments in the vicinity of these listed buildings therefore has not altered my findings in relation to the main issue.
17. The Core Strategy was adopted in 2011 and the Local Plan was adopted in 2003. Both pre-date the current Framework by well over a decade. However, as paragraph 225 of the Framework notes, existing policies should not be considered out-of-date simply because they were adopted prior to the publication of the Framework. Policy CS6 of the Core Strategy and policy HE5 of the Local Plan are consistent with the statutory test in relation to listed buildings and the thrust of the policies relating to conserving and enhancing the historic environment in section 16 of the Framework. As a result, I attach significant weight to the conflict identified between the proposed development and these policies.

Heritage planning balance

18. The harm caused by the proposed development to the significance of the setting of Brumby House, a Grade II listed building, would be less than substantial. In such circumstances, paragraph 208 of the Framework advises that the harm that would be caused should be weighed against the public benefits of the proposal.
19. In accordance with the statutory duties described, I attach considerable importance and weight to the harm that would be caused to the setting of Brumby House. On the other side of the balance, the proposal would result in construction employment and would provide a new dwelling within a settlement that has a range of services and facilities, including bus services, within easy access. It would also increase by a nominal amount the number of dwellings within North Lincolnshire. I attach moderate weight to these benefits of the scheme.

20. Taking all these matters into account, my conclusion is that the public benefits do not outweigh the harm that would be caused to the setting of the Grade II listed building, Brumby House. The proposal would therefore be contrary to a policy of the Framework, as well as failing the statutory test and being contrary to policy CS6 of the Core Strategy and policy HE5 of the Local Plan.

Other Matters

21. The proposed development would access the public highway by way of the shared drive that serves Brumby House and other dwellings to the rear of Old Brumby Street. It is contested whether future occupiers of the proposed development would have the right to use the shared drive. However, as this is a matter of civil law, and a planning application is determined on its planning merits, this is a consideration that has not altered my assessment that the proposed access would be acceptable from a planning perspective.
22. The appeal site is garden land. As a result, it is excluded from the definition of previously developed land (also referred to as brownfield land) included in the Framework and does not benefit from the support that paragraph 124 of the Framework provides to the use of such land for development.
23. In terms of housing land supply, the appellant states that North Lincolnshire Council has a 5.64 year supply. This has not been challenged by the Council. As a result, the so called 'tilted balance' in paragraph 11 d) ii of the Framework does not apply in this case.

Conclusion

24. The appeal site is located within the development limits of Scunthorpe which is the focus of the Core Strategy's spatial strategy for new development, including housing. It is also in a location where services and facilities are readily accessible by sustainable modes of transport. As a result, the proposal would comply with policies CS1, CS3 and CS25 of the Core Strategy.
25. The proposal though would harm the setting of a listed building, contrary to policy CS6 of the Core Strategy and policy HE5 of the Local Plan which both seek to protect the setting of listed buildings. It is therefore not a suitable infill site and so would be contrary to policies CS2 and CS8 of the Core Strategy. As a result, I find that the proposed development would be contrary to the development plan considered as a whole.
26. The other considerations put forward in favour of the proposal, namely the benefits of providing an additional home in a location with good access to services and facilities, are insufficient to outweigh the harm that would be caused and non-compliance with the development plan. Material considerations therefore do not indicate that the proposal should be determined other than in accordance with the development plan. For the reasons set out above, I therefore conclude that the appeal should be dismissed.

Ian Radcliffe

Inspector