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## Appeal Decision

Site visit made on 20 February 2024

**by Paul Cooper MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 28 March 2024**

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**Appeal Ref: APP/Y2003/W/23/3328596**

**Land off Manley Gardens, Brigg DN20 8LW**

- 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 Thompson against the decision of North Lincolnshire Council.
  - The application Ref PA/2022/2163, dated 22 November 2022, was refused by notice dated 26 May 2023.
  - The development proposed is erect a detached dwelling with all matters reserved for subsequent consideration.
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### Decision

1. The appeal is dismissed.

### Preliminary Matter

2. I have taken the description of development from the Council's Decision Notice as it is far more concise than the application form. I note the appellant has used the same on the appeal form. I am therefore satisfied that neither party is prejudiced by this course of action.
3. The application was in outline form with all matters reserved.

### Main Issues

4. The main issues in this appeal are:-
  - The effect of the development on heritage assets;
  - The effect of the development on the living conditions of new residents with regard to land contamination and noise/odour;
  - The effect of the development on the living conditions of nearby residents with regard to overshadowing, the overbearing nature and the loss of outlook.

### Reasons

#### *Heritage Assets*

5. The appeal site is a parcel of land largely covered in hardstanding, located between 40 Manley Gardens and the Old Chapel, which I understand was last used as a commercial storage building. 6 Bridge Street is located to the rear of the site. The Old Chapel is a Listed Building, and the appeal site is located in the Brigg Conservation Area.

6. The Conservation Area was first allocated in 1971, and the latest related Supplementary Planning Guidance is dated 2004. There are a large number of 18<sup>th</sup> and 19<sup>th</sup> Century buildings near the centre of Brigg and a Market Place.
7. The area around the appeal site is predominately residential, with a mix of new development on Manley Gardens, interspersed with some more aged, historic buildings. There are some commercial premises within the immediate area, given the appeal sites central location
8. The Old Chapel is Listed Grade II, first listed in 1976 and dates from the early 19<sup>th</sup> Century, brick built in the Classical style. Historically it has had a number of uses, including a Public House. It sits on the corner of Bridge Street, identified in the Conservation Area Appraisal as one of the major places of interest in the Brigg Conservation Area.
9. The residential properties on the other side of the road are modern in construction and are consistent with the form of any residential street. The appeal site sits between one of the more historic properties (40 Manley Gardens) and the Listed Building, with a commercial property (6 Bridge Street) to the rear of the appeal site.
10. The appeal site itself is wide but narrow from front to rear. The appellant suggests that as the Listed Building is in a dilapidated state, and indiscriminate parking taking place on the appeal site, a new dwelling on that appeal site would actually improve the character and appearance of the area.
11. I do not agree with the assumption of the appellant. The Listed Building may be in a condition that requires renovation, but it still holds that the building is Listed and enjoys protection in Planning Law.
12. The impact of a modern, new build property on that side of Manley Gardens, where older properties are in the ascendancy, would not reflect the character of the dwellings in the immediate surroundings of the appeal site, or the historic nature of the Listed Building. The infilling of that gap on Manley Gardens by any form of modern dwelling would reduce the openness and be detrimental to the character and appearance of the Brigg Conservation Area and fail to preserve or enhance the Conservation Area and the setting of the Listed Building. As set out in the heritage section of the National Planning Policy Framework (the Framework), I consider that the harm would be "less than substantial".
13. I must give considerable weight to the harm to both the Conservation Area and the setting of the Listed Building. The Framework states that less than substantial harm to the significance of a designated heritage asset should be weighed against the public benefits of the proposed development. The proposal would provide a new dwelling to the Council's housing requirements, which I also now understand exceeds the five year requirement.
14. I would expect any potential resident to support the services in the local area, but one additional dwelling would not add a significant amount to this. The proposed development would also have economic benefits through employment opportunities created during the construction phase of the development. I have attached some weight to these factors, but given the modest scale of development, the weight that can be attributed to these factors is limited and

not sufficient to outweigh the less than substantial harm that I have identified or the conflict with policies and the Framework I have referred to.

15. As a result, I find that the appeal proposal is contrary to Saved Policies HE2, HE5, DS1 and H5 of the North Lincolnshire Local Plan (2003) (the LP) which, amongst other matters, expect development to harmonise with adjoining building and preserve or enhance the street scene and protect the setting of a Listed Building. I also find that on this matter, the proposal does not comply with the heritage advice as set out in the Framework, which seeks to sustain the significance of heritage assets.

*Living conditions of new residents*

16. I note that the consultees have raised concerns in respect of the lack of information provided to support the proposal, with respect of issues relating to the environmental history of the locality, and the possibility of harm to living conditions by nearby commercial uses.
17. There is historical evidence of the proximity of the site to a smithy and iron works. This raises the issue of whether contaminants are present on site, and if detected, what mitigation could be put in place to address this.
18. The appellant has dismissed this aspect of concern, but I find that such a potential issue should be addressed at this stage, with evidence supporting the presence or otherwise of contaminants. Without any supporting information, there is no method of considering the likelihood of this becoming an issue.
19. With regard to the potential for noise and odour, again, without supporting information, I cannot be satisfied that the living conditions of new residents would not be affected by nearby commercial premises, with or without mitigation.
20. As such, I cannot be convinced that the site is safe to develop and occupy, and therefore I find conflict with Policies DS1, DS7 and H5 of the LP, which, amongst other matters, expect development to address potential issues relating to land contamination and protect amenities through the potential effect of noise and odour.

*Living conditions of existing residents*

21. As stated previously, the appeal site is wide but narrow, and any prospective property would doubtless face onto Manley Gardens, in keeping with the properties on that street.
22. I find it highly unlikely that any property would cause overshadowing or be overbearing on the adjacent residential properties (38-40 Manley Gardens), as such potential issues can be designed out of a scheme with all matters reserved. This does not however, address the issue of the effect on the adjacent properties from a modern design in a aged, historic group of properties.
23. However, on this issue, I do not find that material harm would be caused to the living conditions of the occupiers of adjacent residential properties, and as such, I find no conflict with Policies DS1 and H5 of the LP. The harms that I have identified elsewhere with the appeal proposal mean that the appeal will be dismissed for other reasons.

## **Conclusion**

24. I conclude that the proposal conflicts with the development plan as a whole, as well as the heritage guidance set out in the Framework and there are no material considerations that indicate that I should take a decision other than in accordance with it. I conclude that the appeal should therefore be dismissed.

*Paul Cooper*

INSPECTOR