



Appeal Decision

Site visit made on 12 March 2024

by J Downs BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th May 2024

Appeal Ref: APP/R2520/W/23/3329491

Land off The Green, Welbourn, Lincoln LN5 0NJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Bob Holmes against North Kesteven District Council.
 - The application Ref is 23/0802/FUL.
 - The development proposed is erection of 1no. dwelling and demolition of storage building.
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Decision

1. The appeal is dismissed and planning permission for erection of 1no. dwelling and demolition of storage building is refused.

Background and Main Issues

2. Following the submission of the appeal against non-determination, the Council submitted a statement which contained two putative reasons for refusal. Based on this, representations from interested parties and my observations on site, I consider the main issues to be:
 - whether the proposed dwelling would be energy efficient;
 - whether the site is a suitable location for the proposed development with respect to the spatial strategy and the effect on the character and appearance of the area including trees and the Welbourn Conservation Area; and
 - the effect of the proposed development on the living conditions of neighbouring occupiers.

Reasons

Energy Efficiency

3. Central Lincolnshire Local Plan (April 2023) (CLLP) Policies S6 and S7 require buildings to be designed in such a way as to reduce their energy consumption. The Council has produced an Energy Efficiency Design Guide (EEDG) which provides advice on how to demonstrate compliance with these policies. While I am mindful this does not appear to have been adopted as a Supplementary Planning Document, it nonetheless provides a useful basis for assessing proposals. The advice it contains also relates to the approach to resources set out in the National Design Guide. I attach moderate weight to the EEDG.

4. The approach advocated by the CLLP firstly seeks to minimise the expected energy use of buildings through orientation, form and fabric. The Energy Statement (ES) does not provide any justification for the building being set at 34 degrees of south, when it acknowledges that it would be advantageous for it to be sited within 30 degrees. The appeal site is a generous plot; there is no rationale to explain why it would not be possible to design a dwelling which would maximise solar gain.
5. The proposed design would fall below the residential targets for window ratio identified in the EEDG. While the design of the proposed dwelling does incorporate elements of traditional rural dwellings, there is no substantive evidence before me as to why it is necessary to be this design. The Heritage Assessment acknowledges that the site is largely concealed. Neither it, nor the Welbourn Conservation Area (CA) Character Appraisal identify a prevailing form of dwelling that it would be necessary to replicate. It also identifies that openings are simple and with ornamentation only provided in the grandest of cases, yet the proposal incorporates lintels. A range of window styles were apparent at my site visit and given the lack of visual prominence of the proposed dwelling, an alternative pattern of fenestration could have been proposed. The proposed design is not exceptional, nor is the site so critical to the character and appearance of the CA that the design of the dwelling would be particularly constrained. I therefore find this is not a compelling reason to fail to meet the standards identified in the EEDG.
6. The calculations to set out the form factor do not appear to include the area of the roof, nor the floorspace. No details of the proposed mechanical ventilation are provided and purge, or natural ventilation is also referenced. This is identified as being unlikely to comply with the fabric standards for buildings. Compliance with all aspects of the indicative specification to comply with ELLP Policy S7 has not been demonstrated.
7. Furthermore, the sources for calculations for unregulated energy use are not robustly referenced, and do not explain assumptions such as a fridge freezer being in use for 8 hours per day and not every day of the year. While these are minor, the cumulative impact of these factors does not demonstrate that minimising energy usage has been integral to the design of the dwelling or has been robustly assessed. There is also no meaningful effort to justify such choices.
8. Solar panels are proposed on two roof slopes of the dwelling. However, it has not been demonstrated that the potential for these to be shaded by the dormer windows has been considered in calculating the potential energy generation from them. I therefore cannot be satisfied that the proposal would generate as much renewable energy as it would consume.
9. It therefore has not been demonstrated that the proposed dwelling would be energy efficient. It therefore would be contrary to CLLP Policies SP6 and SP7 which require development to demonstrate that measures have been taken to reduce energy consumption.

Suitable Location

10. CLLP Policy S4 supports limited unallocated residential development in medium villages such as Welbourn provided it is an appropriate location within the

developed footprint. Both appropriate location and developed footprint are defined in the glossary to the CLLP.

11. Developed footprint is defined as the 'continuous built form of the settlement'. The definition includes four specific exclusions. From my observations at my visit, the site does not readily appear to fall within the curtilage of 31 The Green given its separate access, the layout of the land surrounding No31 and the boundary treatment separating it from the appeal site. Consequently, the site is not automatically excluded from being within the built form of Welbourn.
12. There is a storage building on the site with a domestic appearance which is readily visible in views from the footpath and wider countryside. The appeal site has a managed appearance and a boundary treatment which clearly distinguishes it from the surrounding agricultural land. It is also positioned between dwellings. On one side the built form of the settlement projects well beyond the site into the countryside. On the other, the stone wall and domestic garden also project well beyond the appeal site. Consequently, the site would be viewed from the surrounding countryside as being nestled within the existing built form of the settlement.
13. The site is identified as falling within the village curtilage of Welbourn as defined in the Welbourn Neighbourhood Development Plan 2015-2030 (made 2016) (W NDP). Although it is of some age, and the CLLP has been updated twice since it was made, it remains part of the development plan. The Council consider this boundary was carried over from the North Kesteven Local Plan of 2007. However, the supporting text to the W NDP identifies that the village curtilage was defined in 1966. From my observations, it remains broadly consistent with the pattern of development in Welbourn, irrespective of its age. Taking these factors together, the principle of a dwelling on this site would not be inconsistent with the overall development strategy for the area.
14. CLLP Policy S66, seeks to maintain, improve and expand existing tree and woodland cover, however it also provides circumstances in which it is tacitly accepted that trees can be lost. The parties are in dispute as to the assessment of the quality of the trees on the site. However, the Council's comments in this respect are brief. There is no substantive detail as to why it disagrees with the assessment of the trees on the site or to which trees the concern relates. As a result, I place more reliance on the appellant's tree survey. There has therefore been adequate consideration of the impact of the development on existing trees.
15. The proposed development would result in the loss of a number of trees within the site and along the proposed access. However, the site is only readily visible in views from the footpath. Trees would be retained to either side of the proposed dwelling. Along with the retained hedgerow, these would provide a boundary and setting which would be consistent with the appearance of the settlement edge. The loss of the lilac trees adjacent to the proposed access would have a neutral effect given the presence of other trees within the adjacent site. Given the limited public views and assessed low value of the trees, there would not be a net loss of amenity value. Although there is no suggestion that the Council is not meeting its requirements with regards to the delivery of housing and the supply of housing land, these figures do not represent a ceiling. The benefits of a dwelling would outweigh the limited harm

that would result from the loss of the trees, even taking into account their location within a Conservation Area.

16. The site (except for the storage building) lies within the Welbourn Conservation Area (CA) where s72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of that area. The significance of the CA is derived from its historic significance as a traditional rural village and its architectural significance in the vernacular dwellings and layout. The proposed development would be set back from the road, however this is not without precedent in Welbourn. I acknowledge my findings above with respect to the design of the development, however that was in respect of justifying the approach to energy efficiency. The proposed design would relate well to the detailing and materials of the dwellings which it would be in proximity to when viewed from the countryside. While it would be visible in glimpses from The Green, it would integrate into the surrounding, varied range of dwelling types and styles.
17. The site does provide a transition from the open countryside fields into the settlement. The surrounding boundary between the countryside and residential dwellings is more marked and as such is not a defining characteristic of the CA. Furthermore, due to the spacious nature of the plots, generally low heights of the dwellings and use of sensitive boundary treatments, these provide a suitable transition from the countryside to the settlement. The retention and enhancement of the existing hedge is proposed and this could be secured by condition. I therefore conclude the proposed development would preserve the character and appearance of the CA.
18. No harm to the Area of Great Landscape Value, or to the Lincoln Cliff Landscape Character Sub-Area has been identified and I have no reason to find otherwise due to the very localised effect of the proposal in landscape terms.
19. There is no substantive evidence before me as to the biodiversity value of the trees, and the Council's officer report confirms it would not have sought biodiversity net gain on the site. Notwithstanding, a condition could be imposed requiring biodiversity enhancement measures to be provided were I minded to allow the appeal.
20. Given its position on the boundary of the village and proximity to the footpath, the site does feature in views of Welbourn along the footpath and from the surrounding countryside. However given its small size and position nestled between existing development, its effect would be localised and limited to when in proximity to the site. It would be integrated into the existing built and landscaped form through the retention of some of the existing trees, and hedgerow. It therefore would have an acceptable effect on the character and appearance of the settlement, the surrounding countryside and the rural setting of the village as viewed from the footpath as identified in the WNP.
21. The site would therefore be a suitable location for the proposed development with respect to the spatial strategy and the effect on the character and appearance of the area including trees within the Welbourn Conservation Area. It would therefore be in accordance with CLLP Policies S4 which sets out the development strategy for the area, S53 which requires development to contribute positively to local character, S57 which requires proposals to protect the significance of heritage assets, and Policy S66 which seeks to protect trees.

22. The Council referred to CLLP Policy S59 in its putative reason for refusal which concerns Green and Blue Infrastructure. The supporting text identifies that orchards can form part of this network. However it also confirms that the network is defined as a 'strategically planned and delivered network of multifunctional spaces... and other natural features, and the connections between them'. I have not been provided with any substantive evidence that shows how this site forms part of that network. Given the wide-ranging nature of sites identified as potentially forming part of that network, it is necessary that evidence should be provided. Consequently, it has not been demonstrated that this site would conflict with that policy.

Living Conditions

23. The site lies at a higher level than the adjacent dwelling at 27 The Green. There is no planning reason that a boundary treatment could not be sited within the appeal site and of sufficient height that there would not be overlooking towards No27. This could be secured by condition. Given the circumstances of the site, it would be reasonable to restrict the permitted development rights of future occupiers to make alterations or extensions to the roof to ensure any future proposals would not result in a loss of privacy.
24. The proposed dwelling would be sited centrally within the site. While there would be a change in the outlook from the windows of the property closest to the boundary, these windows are enclosed to a degree by the change in levels on the site and the existing boundary treatment. They could be further enclosed by the erection of a boundary treatment using permitted development rights. The majority of the private amenity space to No27 would not be adjacent to where it is proposed to site the dwelling, and an acceptable standard of outlook would be retained given the spacious nature of the surrounding plots.
25. The proposed development would therefore not be contrary to CLLP Policy S53 which requires development to not result in harm to people's amenity.

Other Matters

26. There is no mechanism before me to ensure that the development would be delivered as a self build dwelling, nor any evidence of the demand or supply of such dwellings. The increase in natural surveillance to the public right of way would be limited due to the proposed position of the dwelling within the site and robust nature of the boundary hedge. I therefore attach limited weight to these.
27. No adverse highway safety effects have been identified, and I have no reason to reach a different conclusion. Although the access would not allow vehicles to pass, the proposed development would generate a limited amount of traffic and it would be possible for drivers to reverse back into the site. While the proposal would result in the loss of some of the boundary wall to the adjacent land, this would have a neutral effect on the character and appearance of the area given its limited extent and position next to the extended access. There would not be any incursion onto the adjacent public right of way or adverse effect on the enjoyment of users. Suitable living conditions would be provided for future occupiers and water efficiency measures could be secured by condition. However these would amount to a lack of harm and be neutral factors.

28. Long Cottage is a Grade II Listed Building some 75m from the site. Only the access proposed to the dwelling could be viewed within the wider setting of Long Cottage, and the provision of the tarmac crossover would not be readily distinguishable from the crossover to No27 given the distance. I therefore consider there would be no effect on the setting of Long Cottage.
29. Any damage to the dry stone wall would be a private matter, as would access to maintain the existing boundary. There is no substantive evidence before me that water or electricity supplies could not be provided to the proposed dwelling.

Conclusion

30. I have found the proposal would conflict with the policies of the development plan which seek to improve the energy efficiency and performance of buildings. I attach significant weight to that harm. While I have found that the proposal would be in a suitable location, would preserve the Welbourn CA and that the loss of trees would be acceptable, this amounts to a policy compliant scheme which is to be expected of any well designed development and would therefore be neutral. While there would be a benefit arising from the delivery of an additional dwelling, this would be limited given it is for one dwelling and would not outweigh the conflict I have identified with the development plan.
31. 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 otherwise. 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