



Appeal Decision

Site visit made on 19 November 2024

by C McDonagh BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 December 2024

Appeal Ref: APP/E2001/W/24/3340209

Land North of Ottringham Village Institute, Chapel Lane, Ottringham, Hull HU12 0BJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mrs Silvia King against the decision of East Riding of Yorkshire Council.
 - The application Ref is 22/03216/PLF.
 - The development proposed is Erection of a detached dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the banner heading above is taken from the decision notice rather than the application form as it more concisely describes the development.
3. As the proposed development site is located within the setting of a Grade I listed building, St. Wilfred's Church, Historic England (HE) should have been consulted at the planning application stage. As they were not, I asked the Council to ensure this took place during the appeal process. No response was received.
4. On 12 December 2024, the Government published a revised version of the National Planning Policy Framework (the Framework). As the changes do not affect the main issues of this appeal, I have not sought the views of the main parties in coming to my decision.

Main Issues

5. The main issues in this appeal are as follows:
 - The effect of the proposal on designated heritage assets;
 - Flood risk; and
 - The effect of the proposal on trees.

Reasons

Heritage Assets

Significance

6. The appeal site comprises part of a roughly rectangular shaped field located within the village of Ottringham. The site is bound by a mixture of fencing, trees and foliage. The appeal proposal includes the erection of a two-storey detached dwelling with associated garden area and vehicular access which would be located in the eastern section of the field.
7. The site is located within the Ottringham Conservation Area (OCA). As such, I have had regard to section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) which states that with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.
8. I have been provided with a copy of the Ottringham Conservation Area Appraisal and Management Plan (OCAA) (adopted January 2022) which illustrates that the character and appearance, and therefore significance, of the OCA is predominantly derived from the prominence of the Church of St Wilfred; relationship between the historic Main Street and St Wilfred's Church and its church yard; and the grouping of late 18th and early 19th century buildings along Main Street Road, Sunk Island Road, Chapel Lane, White Horse Lane, and adjoining streets.
9. Moreover, the OCAA highlights the field within which the appeal site sits as a key view and vista, particularly for its views towards St Wilfred's Church, a Grade I listed building, and the historic core of the village. This aligned with my observations on the site visit, from where I was able to observe the church tower past the trees on the southern boundary of the field. In a more general observation, the open and verdant character of the field was a significantly positive contributor to the OCA when travelling along the A1033 road and in the general vicinity of the appeal site.
10. The appeal site is located within the setting of the aforementioned St Wilfred's Church. I note this is not disputed, although the magnitude of impact is. As such, I have had regard to section 66(1) of the Act, which states that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
11. The listing description¹ advises the church dates from the 12th century in its earliest parts, with additions from the following centuries up until the 20th. From my observations on the site visit, its special interest and significance is generally drawn from its historic and architectural interests. This includes its age, connection to the community historically and ongoing ecclesiastical use, and its traditional construction and materials.

¹ List Entry Number: 1160874

12. The church is visually most prominent from Sunk Island Road, perhaps unsurprisingly. However, its tall tower and spire is visible from much of the surrounding village, including Main Street and Chapel Lane. Its setting includes much of Ottringham and the rural character of the village as a whole and its surrounding open environs allow the historic function of the church to be better understood as the centre of a rural parish which would have been purposely prominent in the area to attract worshippers. Overall, the setting of the listed church contributes considerably to the special interest and significance of the designated heritage asset.

Effects of Proposal

13. I understand that the Council does not take issue with the general design of the proposal, in terms of its appearance, form, composition and materials, among other things. However, the proposal would result in a significant incursion of built form into the open field and the loss of open space which contributes considerably to the character of the local area and the significance of the OCA. This would be exacerbated by the inevitable domestication of the garden area and the laying of hardstanding for access and the parking of vehicles.
14. Given the contribution of the rural, open and verdant character of the area to the setting of the church, which includes the appeal field as identified as a key view, this development and change of character would also lead to harm to the setting and therefore significance of the listed church. This would be particularly evident in views when travelling along the A1033, whereby the prominence of the church in the background would be diminished in part by the development of a dwelling at the appeal site. Although the appellant points out that views of the church tower only begin after the appeal site has passed in views when travelling west, I observed the tower was visible at several points along the road. Moreover, the assessment of impacts upon significance are not limited to visibility.
15. My attention is drawn to a refused planning application² which was allowed³ on appeal in the same field. However, I have very limited information on this decision before me such as plans or a decision letter. Moreover, the appeal was evidently allowed in 1990, a considerable number of years before the development plan or indeed the Framework were adopted. In any event, each proposal is assessed on its own merits, which I have done in this case.
16. Drawing things together, I conclude that the development would fail to preserve the significance of the OCA and would harm the setting of the listed church. The proposal would therefore conflict with Sections 72(1) and 66(1) of the Act. It would also conflict with policies ENV1, ENV3 and A5 of the East Riding Local Plan 2012 – 2029 Strategy Document (LP) (adopted April 2016). These seek, among other things, to ensure that the significance, views, setting, character, appearance and context of heritage assets, both designated and non-designated, should be conserved, especially the key features that contribute to the East Riding's distinctive historic character including: those elements that contribute to the special interest of Conservation Areas, including the landscape setting, open spaces, key views and vistas, and important unlisted buildings identified as contributing to the significance of

² N.9543-C/DB/DW

³ T/APP/X2030/A/89/132849/P3.

each Conservation Area in its appraisal; and Listed Buildings and their settings.

17. The proposal would also be contrary to the advice in paragraph 212 of the Framework, which states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is of particular relevance to the church, which is Grade I listed. As per paragraph 215 of the Framework, where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. I will return to this matter later in the report.

Flood Risk

18. The appeal site is evidently located within the Environment Agency's flood zones 1 and 2 and future flood zone 3a of the Council's Strategic Flood Risk Assessment. This has been demonstrated in the Council's appeal statement of case with the appeal site etched in red.
19. I have had regard to the appellant's initial Flood Risk Assessment⁴ (FRA), which concluded that due to the site's location predominantly in flood zone 1 and a small section in zone 2, that the proposal was exempt from the sequential and exception tests. Paragraph 174 of the Framework advises that the aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding.
20. My attention is drawn to the Flood Risk Sequential and Exception Test Supplementary Planning Document (the SPD), which advises on when the sequential or exception tests are not required for development. This includes when the area of Flood Zone 2 and/or 3 will be used only for soft landscaping/open space; and safe access and egress during flooding can be achieved without having to use the area of Flood Zone 2 and/or 3. Evidently, the proposal would not meet these criteria. Moreover, the Council advises that there are development sites within this housing market sub-area which are at a lower risk of flooding (including sites allocated for housing in the local plan). As such, the proposal would not pass the sequential test.
21. The appellant advises that they were not informed of these requirements during the planning application and would have provided the relevant information had they been. They are also agreeable to this information being attached as a condition were the appeal to be allowed. Regardless, this information is still not before me at appeal stage when the appellant was aware of this requirement. The purpose of the flood risk assessment is to establish whether the proposal is acceptable in principle in areas of increased flood risk. Without this information I cannot be certain of this, and as such it would not be reasonable to attach a condition when it may not be possible to mitigate such risk.

⁴ Reference: 230228/R/211/3.1/RDS

22. Taken together, the proposal has not demonstrated that it would be safe and suitable with regards to flood risk. This would be contrary to policies ENV6 and A5 of the LP which state, among other things, that the risk of flooding to development will be managed by applying a Sequential Test to ensure that development is steered towards areas of lowest risk, as far as possible. The proposal would also be contrary to guidance in the SPD and paragraph 174 of the Framework, which advises that development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding.

Trees

23. The appeal site is located within proximity to several trees which line the boundary of the larger field. The appellant advises that they were not asked for information on the health and vitality of trees during the application process. Regardless, there is still no substantive information before me on this matter. Trees are a significantly positive characteristic of the OCA as I have identified with regards to the significance of that heritage asset and the verdant character of the area.
24. There is nothing before me to substantiate that trees would not be harmed by the proposal. Whether it was requested during the application process or not, I cannot be certain that the scheme would not harm trees nearby. As with flood risk, without this information it would not be reasonable to attach a condition to investigate this matter without certainty that trees could be safeguarded in the first place. Although landscaping could be used to provide replacement trees, there is nothing before me to demonstrate how this would be implemented.
25. Given the lack of supporting information on this main issue, the proposal would be contrary to policy ENV2 of the LP, which states that development proposals should ensure important hedgerows and trees are retained unless their removal can be justified in the wider public interest.

Heritage and Planning Balance

26. I have found that the proposal would lead to harm to the OCA and the setting of the listed church for the reasons given above. As per paragraph 212 of the Framework, when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
27. I agree that this harm would be less than substantial in the parlance of paragraph 215 of the Framework. However, this would apply to both designated heritage assets in turn. This harm weighs considerably against the proposal.
28. Moreover, there would be further harm caused by the lack of suitable assessments related to flood risk and ensuring the health and vitality of nearby trees are not harmed.
29. Although the appellant points to the national requirements to significantly boost the supply of housing, the Council advises it is currently meeting its targets in this regard. I have no reason to disagree. The supply of an additional dwelling to the Council's supply is worthy of some positive weight in favour of the scheme. There would be similar boosts to local services and a

minor benefit in the initial construction of the building. However, given the scale of the development this would be limited.

30. Taking things together, the benefits of the proposal would be outweighed by the harm identified to the OCA and the listed church, as well as the conflicts with the development plan relating to flood risk and potential loss of trees, which would cumulatively weigh considerably against granting permission.

Other Matters

31. I understand that the proposal was preceded by pre-application advice from the Council. The resulting scheme was amended following this advice. However, advice is just that. It does not tie the Council to approving a development and while it is a useful tool to guide development, the offering of advice in the first place is not a guarantee of permission. As such it has little bearing on my decision.

Conclusion

32. The proposal would conflict with the development plan taken as a whole as well as the provisions of the Framework. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

C McDonagh

INSPECTOR