
Appeal Decision

Site visit made on 20 September 2016

by Nick Palmer BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 30 September 2016

Appeal Ref: APP/D2510/W/16/3153226

Land to the north of Tothby Lane, Alford

- 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 Tothby Limited against the decision of East Lindsey District Council.
 - The application Ref N/003/01041/15, dated 27 May 2015, was refused by notice dated 25 February 2016.
 - The development proposed is the erection of up to 51 dwellings.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The application is for outline permission with means of access for consideration and all other detailed matters reserved. An indicative layout plan has been submitted and I shall consider this as indicating a possible scheme.
3. The parties have advised that the proposal was amended in terms of the number of dwellings proposed while the application was under consideration by the Council. The Council consulted on the amended description of development. I have used the amended description in the heading.

Main Issues

4. The main issues in the appeal are:
 - i) the effect of the proposed development on the character and appearance of the area including its effect on heritage assets;
 - ii) the effect of the proposal on protected species; and
 - iii) the accessibility of the proposed development to services and facilities by means other than the car.

Reasons

Character and Appearance

5. The appeal site is an agricultural field to the immediate north of Tothby Lane which marks the limit of the built up area of Alford. The site is outside the development envelope for Alford as defined in the East Lindsey Local Plan Alteration (LP) (1999). It lies adjacent to a public footpath and drive giving access to Tothby Manor House which is a grade II listed building. There is a
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- hedge along the front boundary of the site but I saw on my visit that the site is clearly visible from Tothby Lane above the hedge as is the listed building in the distance. A belt of young trees has been planted to the north of the site and trees have also been planted along the drive/footpath which adjoins the site.
6. The site is within the 'Holton le Clay to Great Steeping Middle Marsh' Landscape Character Area (LCA) in the Council's Landscape Character Assessment¹. This is a gently undulating landscape of farmland which forms the foothills to the Lincolnshire Wolds. The undulating landform and the higher land of the Wolds are clearly visible from the site and its surroundings. The proposed development would be likely to be widely visible not only from other land within the LCA but from land in other nearby areas of differing landscape character. The Council considers the landscape to be intact and a good example of the character type. From what I saw on my visit I see no reason to disagree and I concur with the Council's view that the landscape is of high sensitivity.
 7. The development would protrude into the open countryside beyond Tothby Lane which currently forms the boundary of the urban area. The existing hedges around much of the site may provide some visual screening and the new plantation to the north would also provide screening when grown. However I remain concerned that the development would be visually prominent from the footpath to the east of the site and from Tothby Lane including from the houses which face onto that road.
 8. For these reasons the proposal would give rise to significant visual and landscape impacts. Those impacts would be harmful and would not accord with saved policies A5 and H12 of the LP which require important features or characteristics to be retained and that locally distinctive character is reflected or enhanced. Saved policy A4 of the LP requires protection of amenity including the distinctive character of the area and the proposal would not accord with that policy requirement.
 9. Those policies are consistent with the core planning principle in the National Planning Policy Framework (the Framework) which requires that the character of different areas is taken into account and that the intrinsic character and beauty of the countryside is recognised. Although the site may not be within a valued landscape as provided for in the Framework and any green field housing development would have an inevitable effect on character and appearance, for the reasons given the harm would be significant. I give significant weight to this consideration.
 10. Tothby Manor House was built in the 17th century and replaced an earlier adjacent manor house which was moated. Part of the moat survives. Adjacent to the former manor house there was a hamlet known as Tothby which was known to be in existence in 1565 but which has disappeared. The listed building is prominent within its setting given that it is widely visible as an isolated building within an open landscape. The front of the building faces Tothby Lane and is clearly visible from that road. There are farm buildings adjacent to the building but they do not diminish the open setting. The appeal site forms part of the land belonging to the manor house. The site is for these reasons visually and functionally associated with the listed building and forms part of its setting. The proposed development would obscure the view of the listed building from Tothby Lane. It would also erode the openness of the

¹ East Lindsey District Landscape Character Assessment (2009)

setting of the building to a significant extent. The tree belt to the north of the site would provide some separation when grown but the effect of the development on the setting of the listed building would be apparent from the adjacent public footpath.

11. The former hamlet was on land between the site and the listed building. Archaeological remains of medieval and roman settlement have been identified on the appeal site. The historic settlement of land adjacent to the listed building adds to the significance of its setting. The proposal would remove the remains of part of that settlement but would enable a full investigation and evaluation of those remains. For these reasons the proposal would be of some benefit in terms of archaeological interest. Nonetheless the historical significance of the open setting of the listed building would be diminished.
12. For these reasons the proposal would harm the setting of the listed building and that harm would be significant, but less than substantial taking into account the distance that would remain between the development and the building. In accordance with the Framework² the less than substantial harm must be weighed against the public benefits of the proposal. The proposal would not accord with saved policy C2 of the LP which requires that development within the setting of a listed building preserves or enhances its special architectural or historic interest.
13. The Council accepts that it cannot demonstrate a 5 year supply of deliverable housing sites as required by the Framework and furthermore that its policies for the supply of housing are out-of-date. The proposed housing provision would be of public benefit in the context of the identified shortfall in housing supply. The Council advises that its supply stands at about 3.75 years. Given the extent of the shortfall I attach significant weight to the benefit arising from the proposed new housing.
14. The proposal would also provide 30% of the new housing units as affordable dwellings and a Planning Obligation has been submitted which would secure this provision. This would also provide a significant public benefit. Weight must also be given to the archaeological benefit.
15. However the Framework states³ that great weight should be given to the conservation of heritage assets. For the reasons given above although I find that the harm to the setting of the heritage asset would be less than substantial I nevertheless attach great weight to that harm. The weights that I give to the identified benefits whilst very significant would not be sufficient to outweigh the great weight that I give to the harm.
16. The proposed means of access forms part of the application. This would include the construction of a footway adjacent to a junction radius which would extend under the canopy of a mature beech tree which is within the frontage hedgerow. The Council does not consider the tree worthy of a Tree Preservation Order but it nevertheless makes a positive contribution to the character and appearance of the area.
17. No details of the method of construction of the footway have been provided and neither is any assessment of the proposed works on the tree roots before me. The Council points out that beech trees are typically shallow rooting and

² NPPF paragraph 134

³ NPPF paragraph 132

the works would have the potential to seriously affect the health of the tree by severing roots. This is of concern but in the absence of detailed evidence I cannot conclude on this matter.

18. I have taken into account all other points made including those concerning the intended design and layout of the proposal in relation to the pattern of development in the area, but for the above reasons I conclude that the proposal would unacceptably harm the character and appearance of the area.

Protected Species

19. The beech tree on the road frontage has potential to provide a bat roost and would require further survey work if it was to be removed. The appellant intends to retain the tree but for the above reasons its health may be affected by the access works. However there is no evidence before me to demonstrate that protected species would be adversely affected. Saved policy ENV20 of the LP requires the retention and protection of wildlife habitats but for the above reasons I find that the proposal would not conflict with that policy.

Accessibility

20. Alford has a good range of facilities including shops and schools, an industrial estate and a technology college. The Queen Elizabeth Grammar School is 550m from the site whereas other facilities including shops, the primary school, the college and sources of employment are between 900m and 1.5 km away. There are bus services which provide access to larger centres. The nearest bus stops are over 500 metres away but this would be a reasonable walking distance. Access to facilities within the town on foot would also be possible although I acknowledge that residents would also use the car for access to those facilities as well as for travelling further afield.
21. It is a core planning principle of the Framework to make the fullest possible use of public transport, walking and cycling. The proposed development would be accessible by modes other than the car to a certain extent and any car journeys made to facilities in the town would be short. The Council has expressed concern about heavy parking that occurs near the junction of Tothby Lane and the A1104 in conjunction with the grammar school and implications for crossing the road on foot. Nonetheless for the reasons given I find that the development would have a reasonable degree of accessibility to services and facilities by means other than the car.

Other Matters

22. Both parties have commented on the availability or otherwise of alternative sites for housing development in the town. The Council has expressed concern that previously-developed land in the town would be less likely to come forward for development if the proposal were to be allowed. The Framework expresses a preference for development of previously-developed land over green field land. However the Council says that this matter was not determinative and it did not form part of the reason for refusal. In any case the lack of a five-year supply of housing land means that all sites have to be considered.
23. The appellant points out that the site is not subject to flood risk to the extent that other locations within the district are and that the site is available for development to help fulfil the Council's housing requirement. This may be the case but it does not overcome my concern on the first main issue.

Summary and Conclusion

24. Where housing supply policies are out-of-date or where there is not the required five-year housing land supply, paragraph 14 of the Framework presumes in favour of permission being granted subject to consideration of adverse effects and other policies in the Framework. The Council did not rely on housing supply policies in refusing permission but rather policies that seek to protect the character and appearance of the area and biodiversity. Those policies are broadly consistent with the Framework.
25. I have found that there would be harms in terms of landscape and visual impacts on the open countryside and in terms of harm to the setting of the listed building. Those harms do not accord with the Framework and in particular the harm to the setting of the listed building would not accord with paragraphs 129, 131, 132 and 134 of the Framework. The second bullet point under the 'decision-taking' part of paragraph 14 of the Framework and footnote 9 indicate that permission should not be granted.
26. The proposal would accord with the social and economic dimensions of sustainable development in as far as it would provide new housing, including affordable housing which would have good accessibility by sustainable means of transport to local services and facilities. The proposal would enable support for local facilities both socially and economically. Employment would be provided during construction. However it would be harmful environmentally and for this reason considered in total the proposal would not be a sustainable form of development.
27. For the reasons given I conclude that the appeal should be dismissed.

Nick Palmer

INSPECTOR