



Appeal Decision

Site visit made on 16 August 2018

by D Guiver LLB (Hons) Solicitor

an Inspector appointed by the Secretary of State

Decision date: 12 November 2018

Appeal Ref: APP/N2535/W/18/3203364

Land East of Hillside Cottages, Main Street, Burton-by-Lincoln

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr S Myers, Leverton Farms Limited against the decision of West Lindsey District Council.
 - The application Ref 137326, dated 29 January 2018, was refused by notice dated 3 May 2018.
 - The development proposed is described as full application for the erection of a single cottage and the part conversion and extension of an existing garage block to form an ancillary annexe, access and landscaping.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Leverton Farms Limited against West Lindsey District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The appeal site is located within the village described in the application form as 'Burton-by-Lincoln' but in the local development plan policies and in evidence as simply 'Burton'. Where necessary, I have adopted this shorter name for the village throughout the remainder of this decision.
4. At the time of my site visit the rear portion of the site was overgrown and partially fenced off but could be viewed from the cleared part of the site to the front. The ground level at the front of the site slopes down to the retaining wall, dropping by approximately two metres across the width of the site, at which point it was roughly at the same height as the eaves of 1 Hillside Cottages above first-floor level. The ground level at the back of the site appeared to be on a similar slope and to fall to lower levels to the rear of Hillside Cottages. During the site visit I was approached by an interested party who requested the site be viewed from the neighbouring property. While the interested party had not made a specific request when submitting an objection, it was mentioned as a possibility and I was satisfied that there would be no prejudice to the appellant. The appellant's agent did not object to the viewing from the neighbouring land and also attended.

5. Since the date of the Council's decision, the National Planning Policy Framework 2018 (the Framework) has been published and has effect. The parties have had the opportunity to comment on the Framework and I have taken all comments into account in reaching this decision.
6. The Council's decision notice gave two reasons for refusal, in summary the impact of the proposal on the Burton Conservation Area, particularly with regard to design and amenity, and the availability of local services and transport links. However, the site notice referred to the possible setting of heritage assets and a number of interested parties objected on the grounds of overlooking, loss of privacy and disturbance arising from vehicle movements, which were matters the appellant covered in his submissions. I have addressed these matters as main issues.

Main Issues

7. Accordingly, the main issues are:
 - a) the effect of the proposed development on:
 - i) the character or appearance of the Burton Conservation Area and the setting of nearby listed buildings;
 - ii) the living conditions of the occupiers of neighbouring dwellings; and
 - b) whether the proposal would be in an appropriate location with particular regard to the access to local services.

Reasons

8. The appeal site is an irregular-shaped plot of land on Main Street close to the summit of a hill and the junction with Middle Street, formerly in agricultural use and as allotments. The site is not largely overgrown to the rear. The site lies uphill and to the side and partially to the rear of No. 1, which is the first in a row of five cottages along Main Street. The boundary between the site and No. 1 is delineated by a stone retaining wall. Uphill from the site is the entrance and grounds of The Waterhouse. The front portion of the site is open and comprises a low wall with a narrow splayed opening and a large triple garage on the uppermost part of the site.
9. The proposal is for the construction of a relatively conventional 1.5-storey, two-bedroom 'L-shaped' dwelling to the rear of the site and for a 1.5-storey, one-bedroom annex attached to the existing garage and incorporating one of the bays. The proposal would require partial excavation of the site and the construction of a retaining wall to provide a level driveway and platform for the main house located to the rear of the site. This would result in a slight slope from the front of the site to the rear to account for the current topography and the difference in height between the ground level for the proposed the main house and the level where the site abuts Main Street.

Conservation Area

10. The area surrounding the appeal site comprises the Burton Conservation Area (the Conservation Area). I am mindful of my statutory duty, arising under section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area.

11. The village was formerly part of a family estate and under its patronage grew with a distinctive pattern of buildings interspersed with open spaces and planted with trees to direct and protect views within the settlement. The significance of the village arises predominantly from its unique status in West Lindsey as the only example of a settlement on the Lincolnshire Cliff escarpment that grew up on the hillside rather than at the foot. The hillside development and open spaces are therefore important defining elements in the character and appearance of the village and the Conservation Area. Mindful of its prominent location in the heart of the village, the open nature of the appeal site makes a positive contribution to this significance.
12. Hillside Cottages is referred to in the Burton Conservation Area Description as an important building in its own right and it is described in parallel with the Listed Buildings in the village. The building is a prominent feature of the village and its principal entry point along Main Street, where it is the largest building having a direct frontage on the street. The building dates from the late eighteenth or early nineteenth century and faces the Church of St. Vincent. It also sits partially in front of the Listed Building at Essex House. As such Hillside Cottages plays an important role in defining the character of the village and in the setting of the surrounding Listed Buildings. The building reflects the character developed during the settlement's time as an estate village of buildings set in open areas with wide spaces surrounding them.
13. The main house and the annexe would be constructed predominantly of stone to match the existing stone of the garage and the neighbouring dwellings, and some brick would be used for door and window lintels. The roofs would be covered with red clay pantiles to match the existing garage roof and prevailing roofing in the vicinity. However, while the majority of buildings on Main Street sit well back from the road, the garage on the appeal site sits forward of the predominant building line and the proposed annexe would approach to within a few metres of the road. This would create a narrow building of 15 metres or so in length almost entirely in front of the main built line of the neighbouring dwellings.
14. The main house on the appeal site would be located at the very rear, behind the houses at Nos. 1 to 5 Hillside Cottages with the annexe some distance away close to the road and having the appearance of a separate dwelling. The result would appear contrived and together with hard surface areas would create an uncharacteristic elongated development over virtually the full depth of the site resulting in the loss of undeveloped open space between buildings that is an important element in the village and part of the character of the Conservation Area. Taken together with the projection of the annex into the otherwise open frontage along Main Street the proposal would have an unacceptable negative impact on the character and appearance of the Conservation Area.

Setting of Listed Buildings

15. While not forming a reason for refusal, I am mindful of my statutory duty, arising under section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, to have special regard to the desirability of preserving listed buildings or their settings when considering the grant of planning permission. Setting is defined in the Framework as the surroundings in which a heritage asset is experienced and is more than simply the view of an asset. Burton is a small

village with a relatively high concentration of Listed Buildings and non-designated heritage assets.

The Church of St. Vincent

16. The Church of St Vincent is a Grade II* Listed Building dating from the 12th century but with additions made in 13th, 14th, 17th and late 18th centuries. As such the building is representative of various important periods in English history and architecture. Like many older rural churches, the Church of St. Vincent sits in a prominent position and was the focus and one of the central hubs of village life which gives the asset its significance. The immediately surrounding land comprises the church graveyard that gives a clear area around the church and makes it conspicuous and visible upon entry to the village from Middle Street.
17. However, the setting of the church is informed not only as the building is approached but also when moving away from it and includes the open nature of the surrounding area. Notwithstanding the location of the relatively modern dwelling at Burton Hill House, from Church Lane the whole of the appeal site would be visible. The interruption of the build-line of properties on Main Street would have an unacceptable detrimental effect on the setting the church by interrupting its prominence.

The Old Rectory and the Coach House

18. The Old Rectory and the Coach House are separately listed Grade II Listed Buildings, but the Coach House is referred to as being listed for group value. The Old Rectory is a relatively complete example of a late 17th to early 18th century dwelling for the minister at the adjacent church, although there are some late 18th century alterations and additions. The Coach House is a mid-19th century structure erected as an ancillary building to the Old Rectory. The relative grandeur of the buildings reflect the association between the family estate and the church and are a significant factor in their significance.
19. The Old Rectory and the Coach House are in close proximity to the church and like the church are in a prominent position that is clearly visible from Main Street. The overall setting of these buildings is similar to the church, and indeed forms part of the setting of the latter as well as being important buildings in their own right. As with the church, the setting of the Old Rectory and the Coach House is informed not only as the building is approached but also when moving away from it and from Church Lane the whole of the appeal site would be visible. The interruption of the build-line in developments on Main Street would undermine the open aspect that forms part of the character of the area and noticeable and detrimental impact on the setting these buildings.

The Old School, Wall, Gate Piers and Gate

20. The Old School and associated elements comprise a Grade II Listed Building in a prominent location on Main Street, downhill from the appeal site. The appellant's design and access statement did not address the setting of this asset. The setting of the Old School house is informed by the wider character of the area, namely open spaces and buildings set back from the road and the building represents an important element in the development of the village that preserved the overall character and appearance. The building of the school reflects the push towards universal education in the country and would have

been a major development in the history of the village giving the assets a wider social significance.

21. From the site of The Old School the proposed main house would likely be hidden by the houses at Hillside Cottage, though the roof ridge might be visible due to the topography of the site. However, the portion of the site closest to the road is visible and while the existing garage cannot be clearly seen when planted borders are in full leaf it is likely that the proposed annexe would be visible. Because the proposed annexe would inject a larger structure into the otherwise open build-line it would break the continuity of the street scene in which the Old School is experienced. The setting of The Old School would be affected by the development.

Essex House and Garage at Essex House

22. Essex House is a Grade II Listed Building from the mid-17th century with 18th and 19th century alterations. The Garage at Essex House is a separately listed Grade II Listed Building comprising a former stable block from the 17th century with some 20th century alterations. The garage is described as being listed for group value. These buildings reflect the pattern of dwellings and associated outbuildings being set well back from the road which is an important element of its setting and are thought to be the oldest buildings after the church. The buildings were possibly the site of the village public house and as such would have played an important social role in the life of the village, providing a secular hub, as the church provided a spiritual one. The likely role of the buildings as a social hub of the village would give them a considerable historical significance
23. The close proximity of the buildings to the appeal site puts the latter within the former's setting. The proposal would result in the loss of open space and the extension of the built line close to the road, which would be detrimental to the setting of Essex House and Garage at Essex House by reducing their prominence causing less than substantial harm.

Bede House and Stone Cottage, Old Post Office and Debonnaire Cottage

24. Bede House, also known as the Monson Alms-houses, is a late 19th century Grade II Listed Building founded as alms-houses by the 7th Baron Monson as part of the estate village. The Grade II Listed Building comprising Stone Cottage, Old Post Office and Debonnaire Cottage is a row of three cottages dating from the 18th century with some early 20th century alterations in the vernacular revival style. The building is an important element in the setting of Bede House and is described as being listed for group value.
25. These buildings front Middle Street and therefore the setting is defined by their presence on the top edge of the escarpment. Although the buildings are within the developed footprint of the village they sit apart from the earlier development on Main Street and relate more closely with the open countryside to the east of Middle Street and wooded upper slopes of the hill behind. The setting of these buildings would not be affected by the development.

Other Considerations

26. The detrimental impact of the proposal on the Conservation Area and the setting of listed buildings identified above would lead to less than substantial harm. Paragraph 196 of the Framework advises that where a development proposal will lead to less than substantial harm to the significance of a designated heritage

asset, the harm should be weighed against the public benefits of the proposal. The main benefit identified is the provision of a single house that would make a contribution towards the Council's target for housing growth in Burton in a sustainable location. This very modest contribution would not be sufficient to outweigh the harm to the character or appearance of the Conservation Area or the harm to the setting of designated heritage assets.

27. Therefore, the proposed development would not accord with Policy LP25 of the Central Lincolnshire Local Plan 2017 (the Local Plan), which seeks to ensure that developments preserve and enhance views into or out of a conservation area and retain historic building lines and that developments that effect the setting of Listed Buildings should preserve or better reveal the significance of the asset, and should provide clear justification for proposal affecting the setting of non-designated heritage assets.

Living Conditions

28. No. 1 Hillside Cottages is immediately adjacent the site's boundary. The location of the proposed main dwelling to the rear of the site would be in close proximity to rear outbuildings at No. 1, which have a higher ground level than the principal dwelling. The main house on the appeal site would only have ground floor windows on the southern and western elevations which face No. 1, and the proposed excavation of a platform would lower the ground level to within a metre or so of the ground level at the outbuildings. However, the proposed building platform would remain a few metres above the ground level adjacent to the dwelling at No. 1 Hillside Cottages and from the amenity and turning spaces in the north-western corner of the appeal site the rear elevations and garden spaces across Hillside Cottages would be overlooked resulting in an unacceptable loss of privacy.
29. The use of the site for garaging in the bays to be retained at the extant structure would not cause an unacceptable or any additional harm than would arise from an existing use. However, the extension of the drive to the rear portion of the site would bring traffic within close proximity and at a significant height above the rear outbuildings and amenity space at No. 1. As a consequence of the low level of the retaining wall at this point, traffic movements on the driveway and turning area would be likely to appear endangering to any person using the space between the two outbuildings adjacent to the site and would therefore be overbearing and unacceptably harmful to the enjoyment of this space.
30. In hours of darkness, vehicles using the turning space to manoeuvre would shine headlights on at least the flank wall of No. 1, which has windows for habitable rooms. The height of any vehicle and the necessarily close proximity to the retaining wall between the site and the curtilage of No. 1 would lead to the penetration of headlights. Assuming one or two vehicle movements per day during darkness hours (which would be more likely between late autumn and early spring when there are fewer daylight hours) this penetration would have a moderate negative impact on the living conditions of the occupiers at No. 1. Vehicles using the garaging spaces at the proposed annexe would not cause an unacceptable or any additional harm than would arise from an existing use.
31. The issues with overlooking and headlight glare could be mitigated by the erection of high-level close-boarded fencing. However, the orientation of the site means that the proposal without fencing would be unlikely to result in significant overshadowing or loss of light over and above that already experienced within

the curtilage of No. 1. The erection of fencing would be likely to lead to unacceptable harm from overshadowing and given the height differential would also be unacceptably overbearing. With regard to the proximity of the drive and the lower amenity space between the rear outbuildings at No. 1, any fencing would be likely to create a great sense of apprehension as vehicles would be unseen as they approached the barrier between the sites.

32. The proximity of the drive to No. 1 would result in engine and tyre noise being created close to the boundary. However, the curvature of the proposed driveway would require vehicles to manoeuvre at relatively low speeds and therefore would be unlikely to result in any unacceptable detrimental impact.
33. Therefore, the proposed development would not be in accordance with Policy LP26 of the Local Plan, which seeks to ensure that developments do not unduly harm the amenities of existing and future occupiers of neighbouring land.

Access to services

34. Burton is earmarked in Policy LP4 of the Local Plan for a 15% growth in housing. Presumably there is an identified need for additional housing in the Central Lincolnshire Area and Burton would be an appropriate location for such housing. While some housing developments have been approved there remains scope within the target for additional housing in the village. I am referred in evidence to a proposal on a different site for up to seven dwellings; however, it is not clear whether the application for that development has been determined. Notwithstanding any other development proposals, the scheme subject to this appeal would provide additional housing within the village for which I presume there is a demand.
35. Burton is a small village with few facilities other than the church and the Burton Estate Club. However, the village is well-served by public transport with a regular bus service between Saxilby and Lincoln and a school bus service to Queen Elizabeth's High School, Gainsborough during term times. The bus stops are on Middle Street which is a short walk from the site and accessible by footpath although the bus to Lincoln would require crossing the highway with a 50mph speed limit and there is no pedestrian crossing. While public transport is a feasible option private vehicle travel is more likely, but this is commonly expected in rural areas.
36. The Policy provision for a 15% growth in the number of dwellings in the village was determined when the access to services in the village was known and presumably the need for travel was understood and considered acceptable. There is no compelling evidence before me that would require me to reach a different conclusion.
37. Therefore, the proposed development would accord with Policy LP13 of the Local Plan, which seeks to ensure that developments are located where travel can be minimised and the use of sustainable transport modes maximised.

Other Matters

38. I have been referred to an appeal decision¹ in respect of a proposed dwelling in the grounds of The Waterhouse, which is located adjacent to the appeal site. The Inspector's decision deals with the impact of that proposal on the character

¹ APP/N2535/W/15/3236940

or appearance of the Conservation Area and the setting of Listed Buildings at Bede House and Stone Cottage, Old Post Office and Debonnaire Cottage. In respect of the first consideration, I have reached a similar conclusion to the Inspector. With regard to the impact on the setting of Listed Buildings I have reached a different conclusion but this is due to the different relationship of the site for that proposal with the relevant buildings.

Conclusion

39. Therefore, for the reasons give above and taking into account all other material considerations, I conclude that the appeal should be dismissed.

D Guiver

INSPECTOR