

BOSTON BOROUGH COUNCIL

Planning Committee - 29 May 2018

Reference No: B/18/0144

Expiry Date: 07-Jun-2018

Application Type: Full Planning Permission

Proposal: Erection of 2 no. detached two storey residential dwellings and garages and associated works

Site: Land Adjacent to Ye Olde Red Lion Public House, Donington Road, Bicker, Boston, PE20 3EF

Applicant: Mrs Andrea Thorlby

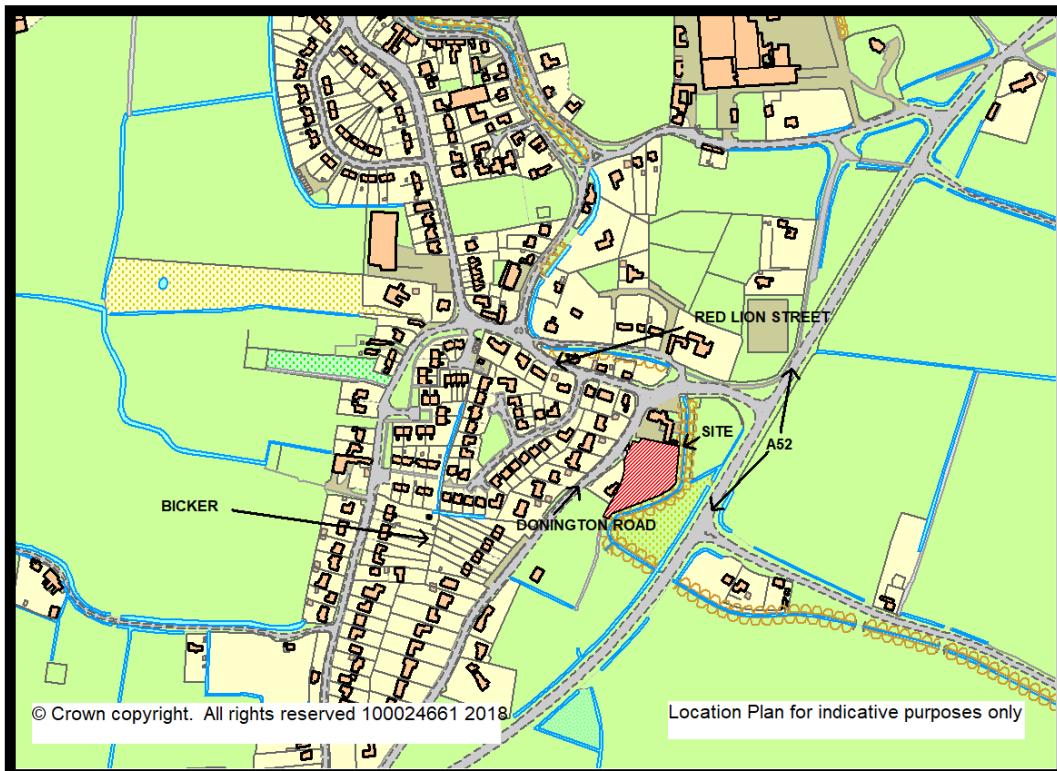
Ward: Five Village

Parish: Bicker Parish Council

Case Officer: John Taylor

Third Party Reps: Seven received

Recommendation: REFUSE



1.0 Reason for Report

- 1.1 This application has been called in by Councillor David Brown who wishes the application to be considered against the criteria in Local Plan Policy H2 and C01.

2.0 Application Site and Proposal

- 2.1 The proposal relates to an area of open field that is somewhat overgrown. The site is located adjacent to but outside the settlement boundary of Bicker close to the southern edge of the village. Immediately to the north of the site is a Grade II listed public house (Ye Olde Red Lion) and the Bicker Conservation Area boundary.
- 2.2 To the west is a single dwellinghouse (Thorlton House) and further estate-type residential development is located further to the west on the opposite side of Donington Road. Undeveloped land adjoins the site to the south and east that is bordered by the A52.
- 2.3 This proposal is a full application for the erection of two detached dwellings with garages and associated works.

3.0 Relevant History

- 3.1 B/17/0261 - Outline application for 3no. dwellings with consideration given to access and layout – Refused at Committee in September 2017. The reasons for refusal were;
1. The proposal would see the introduction of three new dwellings in the open countryside and in a highly unsustainable location; the nearest settlement is Bicker which offers very little in terms of facilities and services for local residents. The allowance of new dwellings in this location would result in future occupiers of the properties being highly reliant on the use of a motor vehicle which is the least sustainable mode of transport to meet their everyday needs. It is therefore considered that the proposal is contrary to saved Local Plan Policies G1, H3 and CO1 and the proposal fails to promote a sustainable pattern of development and thus does not accord with the sustainability objectives of the NPPF (2012).
 2. The application site abuts a Grade II listed public house and the boundary of the conservation area also runs along the northern boundary of the site. The open space that the site currently offers contributes significantly to the setting of the listed building. The allowance of this proposal would largely obscure views from the south of the listed building causing harm to the setting of the heritage asset and fails to preserve or enhance the character or appearance of the Conservation Area. The proposal would therefore be in conflict with the National Planning Policy Framework (2012) that places great importance on protecting heritage assets and their settings.
- 3.2 B/16/0266 – Outline application for 3no. dwellings with consideration given to access and layout – Withdrawn 18/11/2016

3.3 B/04/0277 – Residential development for 1 dwelling (outline) – Refused 03/06/2004. The reasons for refusal are as follows:

1. 'The proposal is on a site outside the village envelope as identified in the Adopted Boston Borough Local Plan. It does not constitute infill development in accordance with Policy C02 nor is it a dwelling needed for agricultural purposes in accordance with Policy C04. Consequently the application not being supported by other Local Plan Policies is contrary to Policy C01 of the Boston Borough Local Plan.
2. The site is adjacent to a Grade II Listed Building and from the information supplied the Local Planning Authority are not satisfied that a development will result that will not adversely affect its setting. Consequently the proposed is contrary to Policy C6 of the Boston Borough Local Plan.

However, these reasons for refusal from thirteen years ago should be approached with a little caution since Policies C02, C04 and C6 were not 'saved' in 2007 and the decision predates the NPPF so the current application is to be determined in a different planning policy environment.

4.0 **Relevant Policy**

Boston Borough Local Plan

- 4.1 The development plan consists of the saved policies of the Boston Borough Local Plan (Adopted 1999). S.38(6) of the 2004 Act requires that determination must be made in accordance with the plan unless material considerations indicate otherwise.
- 4.2 According to the adopted Plan the site is in open countryside so for plan policy purposes the site lies within an area where new development is controlled by Policy CO1.
- 4.3 There are no current saved policies to guide housing development and the lack of a five year supply of housing land means that any policies that are to do with housing supply are 'out of date'. The May 2017 decision of the Supreme Court in the Cheshire East/Suffolk Coast case confirms that policies like CO1 are not policies for the 'supply of housing', contrary to what the Court of Appeal had determined earlier. The weight attached to such policies means that these must be a consideration within the planning balance.
- 4.4 The saved Local Plan Policies of relevance to this application are as follows:
 - Policy G1 – Amenity
 - Policy G2 – Wildlife and Landscape Resources
 - Policy G3 – Surface Water Disposal
 - Policy G6 – Vehicular and Pedestrian Access
 - Policy CO1 – Development in the Countryside
 - Policy H3 – Quality of Housing Development

National Planning Policy Framework

- 4.5 The Framework (NPPF) 2012 indicates that housing applications should be considered in the context of the presumption in favour of sustainable development subject to normal development control criteria. Paragraph 14 repeats the presumption in favour of sustainable development from elsewhere in the Framework and seeks the speedy approval of proposals that accord with the development plan and, where the plan is “absent, silent or relevant policies are out of date”, to grant permission unless the adverse impacts would significantly and demonstrably outweigh the benefits; or that policies in the NPPF indicate development should be restricted.
- 4.6 The Borough does not have a five year housing land supply at this point in time and therefore the ‘presumption in favour of sustainable development’ as contained within the NPPF applies.

5.0 Representations

- 5.1 As a result of publicity seven representations have been received from the following addresses;

- Donington Road – ‘Oak House’ (x2), ‘Thorlton House’, ‘The Birches’, ‘Maple House’(x2), ‘Woodlands’

- 5.2 The objections and comments can be summarised as follows;

- The site is not infill development
- Impact on the character of the area
- Impact on the Grade II listed public house adjacent to the site
- The development will impact the adjacent conservation area
- Traffic and road safety concerns
- Pedestrian safety concerns
- Car parking and access issues
- There should not be an assumption that leaving the land ‘scruffy’ would lead to a favourable planning decision
- The site ‘Bic003’ was contained within local plan consultation documents but was dropped as not considered suitable for housing
- Proposed site lies outside the settlement boundary of Bicker
- The site is in an unsustainable location due to the lack of services and facilities in Bicker
- The land is Grade I agricultural land that has purposely been left fallow by the owners
- Impact on the amenity and privacy of neighbours
- Visual impact
- The large houses proposed are not of the type that will help with housing shortfall in the village
- Given our role as specialist disability children’s high end carers the proposal result in a loss of privacy through overlooking due to our small rear garden area
- Land is of significant historic value and should not be built on
- The access for the houses would mean that overspill from cars using the PH would overspill onto Donington Road

- The open space of the land contributes significantly to the character of the area
- The site was historically a gateway to the village and building houses on this land will destroy its historic identity

6.0 Consultations

- 6.1 Bicker Parish Council – No objection to the houses but object to the impact of the houses on the adjacent listed building
- 6.2 Lincolnshire County Council (Highways and Lead Local Flood Authority) – No objections subject to a number of conditions being attached.
- 6.3 Environmental Protection – No objections
- 6.4 Black Sluice IDB – No response received
- 6.5 Cadent Gas Services – No objection but advice given to applicants
- 6.6 Consultant Architect – The impact to the listed building is not as significant as previous scheme. Materials and boundary treatments need to be condition to ensure the impact on the listed building is reduced

7.0 Planning Issues and Discussions

- 7.1 The main issues in regards to this application are:-
- The principle of development;
 - Impact on the conservation area and the adjacent Grade II listed public house
 - The impact on neighbour's amenity
 - Flood risk
 - Highway issues

Principle of Development

- 7.2 In terms of the principle of development, the main issue in the determination of this application is whether the proposed development would be acceptable having regard to policies concerning the location of new housing and whether it promotes a sustainable form/pattern of development. Members may recall that they refused an outline application for 3 dwellings in late 2017. The first reason for refusal related to the proposed dwellings not being situated in a sustainable location. Both reasons are given in full in para' 3.1 of this report.
- 7.3 As discussed in para's 4.5 - 4.6 of this report the lack of a 5-year supply of housing land triggers the presumption in favour of sustainable development unless the adverse impacts would significantly and demonstrably outweigh the benefits; or that policies in the NPPF indicate development should be restricted.

Sustainable development

- 7.4 The key word in this guidance is in the phrase presumption in favour of **'sustainable'** development (my emphasis) and whether this proposal promotes a sustainable pattern of development.
- 7.5 The latest assessment that considers the sustainability credentials of Bicker was carried out as part of the evidence base for the emerging South East Lincolnshire Local Plan (SELLP). This was carried out in June 2015 and it identified Bicker as the 20th most sustainable settlement in South East Lincolnshire and the 7th most sustainable settlement in the Boston Borough area.
- 7.6 There is a recent appeal decision for four dwellings at land adjacent to Piveltoft House, which is similarly located just outside the settlement boundary of Bicker (ref: B/16/0209 PINS ref: /3165718). The Inspector discussed at length whether Bicker was considered to have the level of services and facilities within the village that would assist in avoiding trips to larger settlements which, given the location of Bicker relative to them and the scale of development proposed, were concluded as likely to be frequent and significant in number.
- 7.7 The Inspector concluded in dismissing the appeal that given that the scheme would promote an unsustainable pattern of development, the benefits associated with the provision of new housing would be significantly and demonstrably outweighed. The proposed development would therefore fail to accord with the principles set out by the Framework to encourage sustainable patterns of development.
- 7.8 There is also a recent appeal decision for a site based in the heart of Fishtoft (a village that offers a similar level of services and facilities) where the Inspector concluded that the proposed single dwelling in the heart of the village did not constitute a form of sustainable development. The appeal was dismissed (ref: B/15/0134) on 11th January 2016.
- 7.9 The NPPF encourages LPAs to be responsive to local circumstances and plan housing developments to reflect local needs. Para 55 states that 'To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, developments in one village may support services in a village nearby'. Para 34 also states that 'Plans and decisions should ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised'.
- 7.10 In term of the principles of sustainable development contained in the NPPF it is considered that the site is not located within a sustainable location largely due to the absence of local facilities and services either close to the site or within the nearby settlement of Bicker. When assessing sustainable development the three elements of social, environmental and economic should be considered as a whole. It is considered that whilst there would be minor 'short term' economic benefit from the proposal (employment from the development of the houses) environmental and social harm would arise given the absence of local facilities and services within the settlement of Bicker and the fact that future occupiers would be highly reliant on the use of a motor vehicle to meet their everyday needs. The remote

location of the development site in relation to these services would also have negative impact to the social element.

- 7.11 It is therefore concluded that this proposal does not promote a sustainable pattern of development and is not the sustainable development for which there should be a presumption in favour. Paragraphs 47-49 of the Framework and its guidance state that to be developable, sites should be in a suitable location for housing. It is considered that the application site is located in an area where the occupants of the proposed dwelling would need to rely on the use of a motor vehicle to meet their everyday needs.

Impact on the adjacent Conservation Area and Grade II listed Public House

- 7.12 Section 72 of the Town and Country Planning (Listed Buildings and Conservation Area) Act 1990 places a general duty on a local planning authority to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area. In addition section 66 of the Act places a general duty on local planning authorities when considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest.
- 7.13 This proposal is a full application for two dwellings whereas the previous proposal refused by committee late last year was an outline application for three dwellings.
- 7.14 The NPPF encourages good design (Part 7) and para 131 of the NPPF states: 'In determining planning applications, Local Planning Authorities should take into account:
- The desirability of sustaining and enhancing the significance of heritage assets and putting them into viable uses consistent with their conservation
 - The positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality
 - The desirability of new development making a positive contribution to local character and distinctiveness'
- 7.15 Para 132 states 'When considering the impact of a proposed development on the significance of a designated asset, great weight should be given to the assets conservation. The more important the asset the greater the weight should be. Significance can be harmed or lost through alteration or destruction of a heritage asset or development within its setting....'
- 7.16 It is clear that by submitting a full application matters of design and scale can be assessed and potential impacts on heritage assets can be fully considered rather than the vagueness of submitting an outline proposal where these matters are normally reserved. Based on this scheme it is the officer's opinion that the impact on the adjacent listed building and conservation area is now far more acceptable than with previous schemes. Whilst there will be some negative impact on the setting of the public house with the correct choice of materials and boundary treatment it is considered that these impacts could be somewhat mitigated. Conditions relating to materials and boundary treatments should be included if the application was to be approved.

Impact on Amenity

- 7.17 The site is considered sufficiently large enough to accommodate two dwellings with detached garages. The separation distance between plot 2 and the nearest existing property is almost 20m; a distance that would normally be considered acceptable.
- 7.18 It is considered that the layout of the properties and the separation distances to neighbouring properties are acceptable and the allowance of these dwellings is unlikely to substantially harm the amenities of occupiers of nearby buildings.

Flood Risk

- 7.19 The proposal is located in Zone 1 of the Environment Agency's flood zone maps and according to the Council's Strategic Flood Risk Assessment is not in an identified zone where local flood risk is considered to be a danger. No further concerns are raised regarding flood risk.

Highways Issues

- 7.20 Concerns have been raised in the objections that this proposal will increase the likelihood of cars parking indiscriminately along Donington Road and this could impact highway safety. The objectors state that cars park along the part of the road that will accommodate the new access for the dwellings using it as overspill parking during busy times at the public house.
- 7.21 Unfortunately these appear to be existing problems and although there will be some reduced options for vehicles to park along the part of Donington Road where the access to the site is intended, this factor alone would not warrant refusing the application. Importantly, the County Highways Authority does not raise any objections to the proposal subject to a number of conditions being attached to any approval.

8.0 Summary and Conclusion

- 8.1 This application proposes to introduce new family sized dwellings in a location outside the settlement boundary of Bicker and thus (for plan purposes) in an open countryside location. Bicker lacks the services and facilities within it to be considered a sustainable location for new residential settlement. Future occupiers would be heavily reliant on the use of a private car to meet their needs. The application therefore fails to promote a sustainable pattern of development, it does not accord with the sustainability objectives of the NPPF (2012) and this recommendation is consistent with comparable appeal decisions.
- 8.2 The application site abuts a Grade II listed public house and the boundary of the conservation area also runs along the northern boundary of the site. The open space that the site currently offers contributes to the setting of the listed building; however, the introduction of two well designed properties with high quality materials on this site is unlikely to substantially harm the adjacent listed building or its setting or cause substantial harm to the nearby conservation area.

9.0 Recommendation

9.1 That Committee REFUSE the application for the following reason:

1. The proposal would see the introduction of two new dwellings in the open countryside and in a highly unsustainable location; the nearest settlement is Bicker which offers very little in terms of facilities and services for local residents. The allowance of new dwellings in this location would result in future occupiers of the properties being highly reliant on the use of a motor vehicle which is the least sustainable mode of transport to meet their everyday needs. It is therefore considered that the proposal is contrary to saved Local Plan Policies G1, H3 and CO1 and the proposal fails to promote a sustainable pattern of development and thus does not accord with the sustainability objectives of the NPPF (2012).

In determining this application the authority has taken account of the guidance in paras 186 – 187 of the NPPF (2012) in order to seek to secure sustainable development that improves the economic, social and environmental conditions of the Borough.

Simon Rowberry
Interim Development Manager