



Appeal Decision

Site visit made on 29 November 2018

by **D Guiver LLB (Hons) Solicitor**

an Inspector appointed by the Secretary of State

Decision date: 7 January 2019

Appeal Ref: **APP/Y2003/W/18/3210021** **Park Lea, Barton Road, Wrawby DN20 8SH**

- 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 Kettle against the decision of North Lincolnshire Council.
 - The application Ref PA/2018/22, dated 8 December 2017, was refused by notice dated 7 June 2018.
 - The development proposed is demolish existing dwelling and garage and replace with new dwelling and garage.
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Decision

1. The appeal is allowed and planning permission is granted to demolish existing dwelling and garage and replace with new dwelling and garage at Park Lea, Barton Road, Wrawby DN20 8SH in accordance with the terms of the application, Ref PA/2018/22, dated 8 December 2017, subject to the conditions in the attached Schedule.

Preliminary Matter

2. Since the date of the Council's decision the National Planning Policy Framework (the Framework) 2018 has come been published and has effect. The parties have had the opportunity to comment on the impact of the Framework on the application and I have taken all comments into consideration in this decision.

Main Issues

3. The main issues are:
 - the effect of the proposal on the character and appearance of the area, with particular regard to scale; and
 - whether the proposal provides for appropriate surface water drainage.

Reasons

Character and Appearance

4. The appeal site comprises a large house in a substantial plot of land accessed by a long drive from Barton Road. The drive is built on a relatively steep incline that rises up from a gate located four metres or so from the edge of the carriageway. The drive occupies a narrow strip of land between the curtilages of the neighbouring properties known as The Orchards and The Millfield. The house is located 80 metres or so from the road and is built behind the neighbouring properties.

5. The house and a large detached garage to the rear are built close to the north-eastern boundary where a number of trees screen the rear of a row of modern houses in Archers Close. One corner of the garage is built within a few centimetres of the boundary.
6. At the time of my site visit the trees along the boundary had shed their leaves reducing the effectiveness of the screening. There were also works being undertaken in front of the house along the line of a possible drainage ditch or watercourse on site.
7. The proposed development is for the demolition of the existing dwelling and detached garage and for the construction of a new house in a white-painted rendered Georgian architectural style and a large detached garage to be located to the front of the building. The proposed house would be built a metre or so south of the northernmost corner of the existing dwelling. The garage to the front of the property would occupy a similar line along the boundary thereby introducing a significant level of separation between the boundary and the buildings on the site.
8. The building would be larger than the existing house on the site but would still sit comfortably within the site and allow for a substantial area of garden to both the rear and front of the property. Policy RD10 of the North Lincolnshire Local Plan 2003 (the Local Plan) seeks to limit any increase in volume in replacement dwellings to no greater than 20% over the existing building's volume plus any volume that could be added by permitted development. The Council accepts that the increased size of the proposed building over the existing dwelling would be within the parameters set by the Policy. A condition restricting further development could account for the potential permitted development taken into consideration in meeting the requirements of the Policy.
9. The building would be comparable in size to a number of other large dwellings in reasonably close proximity, including buildings within sight of the property. The site's removal from the carriageway by reason of the narrowness and length of the drive would prevent the property from becoming a dominant feature in the landscape. Although it would be in relatively close proximity to some of the houses in Archers Close it would be further removed than the existing substantial building and only a ground-floor utility room window and first floor bathroom window would face the boundary.
10. The proposal to render and paint the external surfaces of the building would be in keeping with a number of properties in the area including several visible from the site entrance and the neighbouring property at The Orchards.
11. Therefore, the proposed development would accord with Policy CS5 of the North Lincolnshire Local Development Framework Core Strategy 2011 which seeks to ensure that developments are well-designed and appropriate for their context. The proposal would also accord with Policies RD10, H8 and DS1 of the Local Plan, which together seek to ensure that developments achieve a high standard of design that reflect the local environment.

Surface Water Drainage

12. Interested parties stated that there is a history of localised flooding. While it is not immediately apparent that the appeal site is the source of such flooding,

records maintained by the Lead Local Flood Authority Drainage Team (the LLFA) indicated the presence of a watercourse running through the site. The LLFA suggests that this be investigated and if necessary any watercourse found should be cleared, replaced, protected or diverted. The LLFA suggests that this could be secured by a pre-commencement condition, which the appellant indicates would be acceptable.

13. To prevent future flooding problems the scheme proposes permeable paving and hard standing parking areas which could be secured by condition to a specification acceptable to the Council. The appellant has also raised the possibility of attenuation tanks to prevent storm water flooding the system when required. The use of permeable hard surfaces and, if necessary, attenuation tanks would be a significant improvement on the pre-existing conditions on the site where there do not appear to be any measures in place to prevent flooding.
14. The Council states that drainage issues should be addressed before planning permission is granted. However, Policy DS14 of the Local Plan provides that provision can be addressed by agreeing details before planning permission or by imposing suitable conditions. Accordingly, the potential flooding issues and general surface water drainage can be addressed by condition.
15. Therefore, the proposal would accord with Policies DS1 and DS14 of the Local Plan which together seek to ensure that there is a satisfactory and suitable on-site provision for the disposal of foul and surface water.

Other Matters

16. The Council's decision notice referred to Policy H5 of the Local Plan. However, this appears to relate to wholly new housing developments in the countryside rather than replacement dwellings referred to in Policy RD10 of the Local Plan. Policy H5 of the Local Plan is therefore not relevant to the matters before me and subject to this appeal.
17. Interested parties made a number of objections beyond those given as reasons for refusal. The site layout shows that sufficient separation distances will be maintained to prevent any unacceptable impact on outlook or the privacy of neighbouring occupiers and the reduced height and location of the proposed dwelling would likely reduce overshadowing. The Council's committee report gives details of the extensive publicity given to the proposed development which satisfies the requirement for public consultation. The revised proposal regarding the removal and retention of trees provides adequate protection for those examples with significant value.
18. The proposal is for a dwelling and there is nothing before me that suggests an intended business use. However, if and when a business use was introduced it would be a matter for the Council to address as either lawful development or within its enforcement powers. Possible restrictive covenants are a private law matter and, like any potential impact on property values and land ownership and boundary disputes, is not a planning consideration.

Conditions

19. The conditions set out in the accompanying schedule are based on those suggested by the Council. Where necessary I have amended the wording of

these in the interests of precision and clarity in order to comply with the advice in the Planning Practice Guidance.

20. In the interests of proper planning I have imposed the standard condition in respect of time limits. For certainty I have imposed a condition requiring compliance with the plans. To ensure that the proposed dwelling protects the character and appearance of the area I have also imposed conditions requiring approval of all external facing materials, landscaping and the protection of trees.
21. In the interests of highway safety I have imposed a condition requiring the vehicular access to be provided before first occupation. In the interests of ensuring proper drainage on the site I have imposed a condition for the disposal of foul and surface water. To protect the privacy of future and neighbouring occupiers I have imposed conditions requiring a glazed screen on the rear balcony and obscured glass to the bathrooms on the northern and southern elevations. However, given the separation distances between the proposed dwelling and neighbouring properties, I have not imposed a condition for obscured glazing to the first-floor bedroom window in the southern elevation.
22. The Council's Environment Team concluded there was a low probability of bats in the buildings but a higher possibility of small mammals and breeding and migrating birds on site. I have therefore imposed conditions requiring a biodiversity management plan.
23. The Council's Environmental Health Team has requested information about possible land contamination. However, the effect of any contamination on the progress of the development can be adequately controlled by condition and I have therefore imposed one. To regulate development in the open countryside I have imposed a condition removing permitted development rights.

Conclusion

24. For the reasons given and taking account of all other material considerations, I conclude that the appeal should succeed.

D Guiver

INSPECTOR

Schedule

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: DN20 8SH-A-01; DN20 8SH-A-03C; DN20 8SH-A-04B; DN20 8SH-A-05; and DN20 8SH-A-06A.
- 3) Notwithstanding condition 2 no development shall take place until details of the make, type and colour of all external facing materials have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) No development shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include:
 - i) Details of all trees to be retained on the site;
 - ii) specification for the planting of trees within the site to mitigate those lost as a result of the development;
 - iii) hard surfacing materials;

The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied in accordance with the agreed implementation programme.
- 5) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 6) No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees shall be carried out as approved.

In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved hard and soft landscape works.
- 7) The dwelling hereby permitted shall not be occupied until the vehicular access and space for cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear has been laid out within the site in accordance with drawing no. DN20 8SH-A-04B and that access and space shall thereafter be kept available at all times for those purposes.
- 8) Development shall not commence until drainage works for the disposal of foul and surface water shall have been carried out in accordance with details which shall have been submitted to and approved in writing by the

- local planning authority. The scheme shall include investigation works into a possible watercourse running through the site and any necessary improvement measures to be taken.
- 9) The glazed screen to the rear balcony shown coloured black on drawing number DN20 8SH-A-03C shall be installed prior to first occupation of the dwelling hereby permitted and shall thereafter be retained.
 - 10) The dwelling hereby permitted shall not be occupied until the first-floor windows in the northern and southern flank elevations serving bathrooms have been fitted with obscured glazing to a minimum of level 3 of the Pilkington Scale of obscuration, and no part of those windows that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Once installed the obscured glazing shall be retained thereafter.
 - 11) No development shall take place until a biodiversity management plan has been submitted to and approved in writing by the local planning authority. The plan shall include:
 - i) details of measures to avoid harm to hedgehogs, bats and nesting birds during demolition, vegetation clearance and construction works;
 - ii) details of bird nesting and bat roosting features to be installed on the new building;
 - iii) restrictions on lighting to avoid impacts on bat roosts, bat foraging areas, bird nesting sites and sensitive habitats;
 - iv) provision for hedgehogs to pass through any fencing installed between gardens and between areas of grassland;
 - v) prescriptions for the retention, planting and aftercare of trees and shrubs of high biodiversity value; and
 - vi) proposed timings for the above works in relation to the completion of the building.
 - 12) The biodiversity management plan shall be carried out in accordance with the approved details and timings, and the approved features shall be retained thereafter, unless otherwise approved in writing by the local planning authority. Photographs of the installed bat roosting and bird nesting features shall be submitted within two weeks of installation.
 - 13) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.
 - 14) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no extensions or alterations to the dwelling or garage block hereby approved or buildings incidental to the enjoyment of the approved dwelling shall be erected within the curtilage.

END OF SCHEDULE