

Appeal Decision

Site visit made on 13 September 2016

by **David Troy BSc (Hons) MA MRTPI**

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

Decision date: 14th October 2016

Appeal Ref: APP/D2510/W/16/3151533

**Land adjacent the George and Dragon Public House, Hagworthingham
PE23 4NA**

- 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 NewRiver Property Unit Trust No.4 against the decision of East Lindsey District Council.
 - The application Ref S/070/01486/15, dated 6 August 2015, was refused by notice dated 14 March 2016.
 - The development proposed is erection of 1no. house with associated detached garage, access and parking.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The application was made in outline with all matters other than access reserved for future consideration. Whilst the accompanying drawings do not form part of the formal application, they indicate how the site could be developed with a two storey dwelling. I have determined the appeal on this basis.

Main Issues

3. The main issues are:
 - (i) The impact on the living conditions of the occupiers of the proposed dwelling with particular regard to the noise disturbance and activity from the users of the public house car park, and
 - (ii) The impact of the development on the public house business.

Reasons

Living conditions of the occupiers of the proposed dwelling

4. The appeal site comprises an open parcel of land within the curtilage of the George and Dragon Public House in the village of Hagworthingham. The proposal would involve the construction of a 4 bedroomed, two storey dwelling at the rear of the public house with access gained via an unmade track off the main A158 road. The track provides access to the pub car park to the south-west of the site and a residential property and farm to the north.
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5. Policy A4 of the East Lindsey Local Plan Alteration 1999 (LP) indicates that development which unacceptably harms the general amenities of people living and working nearby will not be permitted. The supporting text to Policy A4 states that, whilst all new development impacts to some degree and is not a reason for refusal, in applying the policy the Council will decide what is reasonable and acceptable or not, according to circumstances.
6. The indicative drawings show that the proposed dwelling would be located immediately adjacent to the pub car park and the access track. Vehicles coming and going along the access and into the pub car park would pass within a few metres of the proposed dwelling and the garden area to the rear. Given the close proximity of the appeal site to the pub car park and the configuration of the access track into the site, I consider that the vehicular comings and goings, public house deliveries and other activities associated with the users of the pub car park would result in an unacceptable level of noise and disturbance to the occupiers of the proposed dwelling.
7. The appellant statement points out that the Council's Environmental Health Officer raised no objections subject to a close boundary fence (height to be agreed) being erected along the south-west boundary of the site and non-habitable rooms being located on the western side of the proposed dwelling. Whilst these measures together with a suitable layout and design of the property through consideration of the reserved matters, would help in addressing the potential loss of privacy and outlook for the occupiers of the proposed dwelling and the neighbouring properties, I do not consider they would adequately address the noise disturbance and activity caused by the users of the car park in this case.
8. The appellant also considers that based on the opening hours, the occupiers of the proposed dwelling would not be disturbed at unsociable hours. However, such activities associated with the users of the pub car park would be relatively frequent during the opening hours of the pub and potentially in the evening and when the users are leaving the pub after closing time, thus leading to increased noise and disturbance at these times.
9. Consequently, I conclude that the level of noise disturbance and activity from the users of the public house car park would cause harm to the living conditions of the occupiers of the proposed dwelling. It would, therefore, not accord with Policy A4 of the LP which seeks to protect the general amenities of people living and working nearby.

The impact of the development on the public house business

10. Paragraph 123 of the National Planning Policy Framework (the Framework) states that planning policies and decisions should aim, amongst other things, to recognise that development will often create some noise and that existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established. The Planning Practice Guidance makes it clear that decision taking should consider the potential for an effect from noise and consider whether or not there would be a 'significant adverse' or 'adverse' effect that is likely to occur.
11. I have already found there to be potential for a living condition issue. In this case, given the close proximity of the appeal site to the pub, there may be

other potential noise sources such as vehicular comings and goings, deliveries, refrigeration units, extractors, loud talking, music and other activities associated with the business. In the absence of a noise assessment undertaken by a competent acoustic consultant, I cannot conclude whether or not a 'significant adverse' or 'adverse' effect would be likely to occur from the activities at the public house and that the proposed development would not result in unreasonable restrictions being placed on the public house business.

12. The appellant points out that the future occupiers of the proposed dwelling would be aware of the public house before occupying the dwelling and that the proposal is in outline form only and the residential amenity issues could be appropriately addressed at the detailed reserved matters stage. However, for the reasons set out above, I consider that the noise disturbance and activity from the users of the public house car park would cause harm to the living conditions of the occupiers of the proposal. In the absence of any evidence about the potential effect of noise from the public house, a dwelling in this location could therefore lead to potential unreasonable restrictions being placed on the existing business and may hamper future expansion or the viability of the business due the threat of restrictions should there be a statutory noise nuisance.
13. I have noted the planning permission drawn to my attention by the appellant on the land immediately to the west of the public house. However, the development for two dwellings is not directly comparable to the proposal and has different locational characteristics. I have therefore accorded this limited weight as a precedent in this case.
14. Consequently, I conclude that the proposal would be in conflict with Paragraph 123 of the Framework which seeks to protect the continuance of unhindered business uses from changes in nearby uses.

Other matters

15. The Council accepts that it cannot demonstrate a five year supply of deliverable housing sites. Paragraph 49 of the Framework states that relevant policies for the supply of housing cannot be considered up to date if the local planning authority cannot demonstrate such a supply. Paragraph 14 of the Framework sets out the presumption in favour of sustainable development. For decision making this means that where the development plan is absent, silent or relevant policies are out of date, planning permission will be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. Sustainable development is identified as having social, economic and environmental roles in the Framework.
16. The Council indicates that the village of Hagworthingham can be regarded as a sustainable location for housing in general terms and, although outside the settlement boundary, the appeal site would be well linked and integrated with the village. The appellant states the proposal would make a positive contribution toward the district's housing supply and would have some social benefits through adding to the mix of housing in the area and short term economic benefits, particularly during the construction period. The appellant outlines that environmental benefits would arise from the provision of a suitably designed dwelling and landscaping scheme at the reserved matters

stage, which would ensure that the proposal related sympathetically to the site and its surroundings.

17. Given the modest scale of the development, any harm would be relatively local in extent and, as such, would not materially detract from the overall special qualities of the surrounding Lincolnshire Wolds Area of Outstanding Natural Beauty. However, one additional dwelling would make an extremely limited contribution to the vitality of this rural community and, more generally, to the housing stock in the district. Furthermore, there is no evidence before me to suggest that local services are at risk such that a further dwelling would secure their retention.
18. Therefore, for the reasons given above, I consider that the adverse impacts that the proposed development would have on the living conditions of the occupiers of the proposed dwelling and the public house business would significantly and demonstrably outweigh its limited and unquantified benefits. As such, the appeal scheme would not represent a suitable sustainable form of development for which the Framework carries a presumption in favour.

Conclusion

19. For the reasons given above, and having regard to all other matters raised, I conclude the appeal should be dismissed.

David Troy

INSPECTOR