
Appeal Decision

Site visit made on 27 September 2016

by Claire Searson MSc PGDip BSc (Hons) MRTPI IHBC

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

Decision date: 17th October 2016

Appeal Ref: APP/M2515/W/16/3153170
68 Riseholme Road, Lincoln, LN1 3SP

- 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 Personnel Representative for Mrs B.M. Curtis (Deceased) against the decision of City of Lincoln Council.
 - The application Ref 2016/0062/F, dated 25 January 2016, was refused by notice dated 7 April 2016.
 - The development proposed is the redevelopment of site including erection of 5 dwellings and alterations to existing dwelling on site served off a private drive.
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Decision

1. The appeal is allowed and planning permission is granted for the redevelopment of site including erection of 5 dwellings and alterations to existing dwelling on site served off a private drive at 68 Riseholme Road, Lincoln, LN1 3SP in accordance with the terms of the application, Ref 2016/0062/F, dated 25 January 2016, subject to the attached schedule of conditions.

Main Issue

2. The main issue is the effect of the proposed development upon the living conditions of Nos 68 and 70 Riseholme Road, in terms of privacy, light and noise and disturbance.

Reasons

3. The appeal site is located to the rear of No 68 Riseholme Road. It is a 2-storey detached dwelling with attached single storey outbuildings and garage. It is set in a large plot with gardens to the side and rear. There are neighbouring dwellings to the north and south of the plot.
 4. While the Council have referred to a distance of 21metres between properties being required to prevent overlooking, I have not been provided with any policy or guidance which details that standard. Plots 2 and 3 would be in closest proximity to No 68 with a separation distance of around 12metres at its closest point to the rear offshoot of No 68, however I saw that there were no habitable rooms in the offshoot which would face the development, rather windows in this faced south towards the side garden of this property. Accordingly, while this distance is small, I do not consider that there would be overlooking between No 68 and the proposed dwellings.
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5. The nearest first floor windows to No68 facing the appeal development and serving habitable bedrooms were in the main dwelling at around 19 metres from the proposed dwellings. I also note that the dwellings would incorporate accommodation in the roof space. However, based on this separation distance, I am satisfied that the privacy of existing occupants of No 68 would not be compromised to an unacceptable degree. Privacy at ground floor level would be maintained through the erection of a 1.5m close-boarded fence.
6. No70 is a neighbouring 2-storey detached dwelling, located to the north of the site. It is surrounded by a tall conifer hedge, as well as palisade and wooden fencing. Plots 1 and 2 would be in closest proximity with this dwelling, at around 15metres away. However views from first floor and upper (attic) floor bedrooms would be oblique. Due to the screening from the hedgerow, there would be no overlooking at ground floor level. I am therefore satisfied that overlooking would be minimised and would not cause material harm.
7. Furthermore, due to the separation distance, the positioning of the proposed dwellings to the west of Nos 68 and 70 and the tracking of the sun, I do not consider that there would be any significant overshadowing arising from the development.
8. A private driveway serving the proposed development would be created by the demolition of the single storey garages to No 68, and would lead from Riseholme Road between Nos 68 and 70. I saw that Riseholme Road is a busy main road as one of the main thoroughfares into Lincoln City Centre. The surrounding area comprises of a mix of residential dwellings and commercial premises. There are also schools to the rear of the site.
9. Given these conditions, I do not consider that the erection of 5 dwellings and the noise created from day to day living would increase the ambient noise levels of the area to any significant degree. Furthermore a construction management plan could be conditioned to control any disturbance arising from the building work itself.
10. Overall I conclude that the development would not harm living conditions of residents at Nos 68 and 70 Riseholme Road. The development is therefore in accordance with saved Policies 34 and 58 of the City of Lincoln Local Plan (2008) which seek to ensure that development has a satisfactory physical and functional relationship to adjoining buildings and avoid harm to the amenity of neighbouring residents.

Other Matters

11. While I saw that there were no other garages located to the front of dwellings in the area, due to the screening of this from the tall and dense boundary hedgerow, as well as the size and height of the proposed garage, the overall visual impact of this would be limited. I therefore do not consider the erection of the garage to the front of the established building line would be harmful to the character of the area.
12. In respect of concerns regarding highway safety, I am mindful that the Highways Authority did not object to the application. I am satisfied that parking provision and turning circles would be adequate to serve the 3-bedroomed dwellings. Due to its design, I consider that the vehicular speeds

along the private driveway would be limited which would preserve the safety of any pedestrians utilising the driveway as a shared thoroughfare.

13. Based on my findings in respect of character and appearance, living conditions and highway safety, I am satisfied that the appeal site can accommodate 5no dwellings without undue harm. Therefore, I do not consider that the proposals represent overdevelopment of the site.

Conditions

14. I have had regard to the conditions put forward by the Council. For certainty I have specified a condition requiring the development to be carried out in accordance with the approved plans, however I have altered the form of the suggested wording in respect of amendments being agreed by the Council. I do not consider this to be necessary as it would be possible to make an application under 73 of the 1990 Act to vary those plans as 'minor material amendments.' I have specified a condition for sample materials in order to ensure the satisfactory appearance of the dwellings and garage within the locality. For the same reasons I have included a landscaping condition.
15. Conditions in respect of width of access and the provision of parking and turning spaces are necessary for highway safety reasons. I have not, however, included the suggested condition in respect of provision of electric vehicle recharge points as I do not consider this to be reasonable or necessary in respect of the development of 5 dwellings.
16. Due to the distance between the development and Lincoln Castle Academy, I do not consider it necessary to condition privacy film. I understand that the appellant has come to a separate arrangement with the school, however this has had no bearing on my decision which is based upon its planning merits.
17. It is necessary to impose a condition in respect of a Construction Management Plan, to minimise the impact of construction upon neighbouring residents. Due to the potential for significant contamination within vicinity of the site, I have imposed a number of relevant conditions to ensure that risks are minimised. Finally, due to the likelihood for finds within the site, I have specified conditions in respect of archaeology. The Council's suggested wording of the conditions in respect of contamination and archaeology has been altered to avoid repetition.

Conclusion

18. For the reasons given above and taking into account all matters raised, I conclude that the appeal should succeed.

C Searson
INSPECTOR

Schedule of conditions:

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: RDS 11114/01, RDS11114/03 F, RDS 11114/05, RDS 11114/06, RDS 11114/07A, RDS 11114/08, RDS11114/09.
- 3) No development shall take place until samples of all external facing materials have been submitted to and approved by the local planning authority in writing. The relevant works shall be carried out in accordance with the approved sample details.
- 4) Prior to the commencement of development a scheme of landscaping shall be submitted to and approved by the Local Planning Authority. The approved scheme shall be implemented on site prior to the occupation of the first dwelling and shall be maintained thereafter.
- 5) No dwellings shall be occupied until a means of access for at a minimum width of 4.5metres has been constructed in accordance with the approved plans. The access shall be retained thereafter.
- 6) No dwelling shall be occupied until space has been laid out within the site in accordance with drawing no. RDS 11114/03F for cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear and that space shall thereafter be kept available at all times for those purposes.
- 7) Prior to the commencement of development a Construction Management Plan shall be submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approved details unless otherwise agreed in writing.
- 8) No development shall commence until an assessment of the risks posed by any contamination shall have been submitted to and approved in writing by the local planning authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), and shall assess any contamination on the site, whether or not it originates on the site. The assessment shall include:
 - i) a survey of the extent, scale and nature of contamination;
 - ii) the potential risks to:
 - human health;
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes;
 - adjoining land;
 - ground waters and surface waters;
 - ecological systems; and
 - archaeological sites and ancient monuments.

- 9) No development shall take place where land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan.

The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The approved remediation scheme shall be carried out prior to the commencement of development and the local planning authority given two weeks written notification of commencement of remediation scheme works.

Upon completion a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority before the development is occupied.

- 10) 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. Where no unexpected contamination is found written confirmation must be submitted to the local planning authority prior to occupation of the development.
- 11) No development shall take place until a Written Scheme of Investigation shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an assessment of significance and research questions – and:
- i) the programme and methodology of site investigation and recording;
 - ii) the programme for post investigation assessment;
 - iii) the provision to be made for analysis of the site investigation and recording;
 - iv) the provision to be made for publication and dissemination of the analysis and records of the site investigation;
 - v) the provision to be made for archive deposition of the analysis and records of the site investigation;
 - vi) the nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

No development shall take place other than in accordance with the Written Scheme of Investigation unless otherwise agreed in writing with the local planning authority.

- 12) The applicant/developer shall notify the city archaeologist, via the planning department, of the intention to commence all works at least 7

days before commencement. The report shall be prepared and deposited with the City Council's Heritage Team within the local planning authority and the Lincolnshire Historic Environment Record within 6 months of completion of the archaeological works. The archive shall be deposited with The Collection (Lincolnshire Museums) within twelve months of the completion of site works. No variation shall take place without prior written consent of the local planning authority.