

Appeal Decision

Site visit made on 17 October 2016

by Zoe Raygen Dip URP MRTPI

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

Decision date: 28 October 2016

Appeal Ref: APP/Y2003/W/16/3147539

38 Ville Road, Scunthorpe, North Lincolnshire DN16 2NW

- 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 Mr T Matthews against the decision of North Lincolnshire Council.
 - The application Ref PA/2014/1426, dated 23 December 2014, was refused by notice dated 16 December 2015.
 - The development proposed is outline application for residential development.
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Decision

1. The appeal is allowed and outline planning permission is granted for residential development at 38 Ville Road, Scunthorpe, North Lincolnshire DN16 2NW in accordance with the terms of the application, PA/2014/1426 , dated 23 December 2014 subject to the conditions set out in the schedule to this decision notice.

Procedural matter

2. The application is in outline; with all matters reserved for future consideration. The appellant has submitted a proposed layout plan which I will treat as for indicative purposes only.
3. A draft, unsigned and unsealed S106 agreement has been submitted as part of the appeal with respect to a contribution towards play equipment. I shall return to this matter below.

Main Issues

4. The main issues are firstly, the effect of the proposal on highway safety and secondly, the effect of the proposal on the living conditions of the occupiers of the adjacent property with particular regard to surface water drainage.

Reasons

Highway safety

5. The appeal site forms part of the rear garden of 38 Ville Road and also extends behind 40 Ville Road. It currently houses a large outbuilding, which was formerly used for car repairs and sales. There are two access points along the rear boundary which allow vehicles to enter onto the A18 Queensway, a dual carriageway, via existing vehicle crossovers.
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6. The Council has considered the proposal on the basis that the proposed houses would be served by one of the existing access points from Queensway. I saw that this would be the only way of accessing the appeal site, from land within the ownership of the appellant, without demolishing part of No 38. Therefore I have also considered it on this basis.
7. The Council raise concerns regarding the proximity of the access to a signalised junction about 80 metres away and the introduction of an access onto a principal vehicular thoroughfare in Scunthorpe. I have though been provided with no substantive evidence regarding the impact of the proposal on the highway network.
8. I saw that vehicles would have to turn left out of the access onto Queensway. When I visited the site the road was not particularly busy and there was an intermittent flow of traffic such that vehicles would have opportunity to enter the road without difficulty. I am aware though that this is just a snap shot in time and given the nature of Queensway as a principal thoroughfare, it may be busier at times particularly at peak periods.
9. Nevertheless, visibility to the south east is very good and the speed of traffic is restricted to 40mph. As a result, drivers exiting the appeal site would be able to view cars approaching from a significant distance and would be able enter Queensway safely when leaving the site in forward gear. The site is large and would be able to accommodate some residential development together with a turning area to ensure that drivers could leave the site in forward gear. This could be secured through means of a suitably worded condition.
10. I observed the operation of the signalised junction and saw that traffic was rarely queuing back to the appeal site. Again this may be different at peak periods. However, if the lights were at red traffic would be slowing down. If they were at green, then the traffic speed would be restricted by the speed regulation order. Furthermore, parking for the vehicles could be achieved on site so as not to obstruct the road. I note that the Highway Authority has recommended the inclusion of conditions to overcome any objections to the scheme in this respect. From my observations on site I see no reason to disagree with this approach.
11. The requirement for parking and a turning area on site would place a restriction on the number of dwellings that could reasonably be achieved. The indicative layout plan shows that 5 houses could be sited along with a turning area and satisfactory parking spaces. I think it necessary therefore to restrict the number of houses to five in total, through the imposition of a condition, to ensure that there would be no significant harm to highway safety.
12. I have also had regard to the fact that the access is existing and once served a car repair and sales business. However it has not been used for this purpose for a number of years and I have no substantive evidence to indicate that there is a significant probability that the outbuilding would be used for that purpose again should this appeal be dismissed. This limits the weight that I can attach it as a fall-back position.
13. Nonetheless, the proposal would utilise a current access which could be used in association with the existing dwelling. I saw that No 38 had two garages which had access from Ville Road. It is likely therefore that if the appeal were to be allowed the occupiers of No 38 would access their property via Ville Road. As a

result there would be an increase of 4 properties utilising the access onto Queensway. I have been supplied with no figures relating to the number of traffic movements associated with the proposal. However, I consider that they would not be significant in light of the limited number of additional houses utilising the access. As a consequence given the specific highway conditions that I have described above I do not consider that highway safety would be compromised.

14. The Council also express concern for the precedent that this proposal could set for further development with an access directly onto Queensway. In this respect I note that two properties to the east of No 38 also have an access on their rear boundary to Queensway each serving a residential garage. Both properties have large gardens. However, any proposal for development at these properties would be subject to consideration against the relevant policies of the Council's development plan. Any cumulative effect on highway safety would also need to be considered. Each application and appeal must be determined on its individual merits and a generalised concern of this nature does not justify withholding permission in this case.
15. For the reasons above therefore I do not consider that the proposal would be harmful to highway safety and therefore it would be in accordance with saved Policy T2 of the North Lincolnshire Plan 2003. This requires that all development is provided with satisfactory access that is served adequately by the existing highway network.

Surface water drainage

16. The Council consider that insufficient information has been submitted to establish that the development would not cause surface water run-off problems for the occupiers of adjacent properties. The Council's drainage team have identified that the development is within an area identified as at risk from surface water run-off or drainage overflow.
17. The appeal site is mainly laid to grass with the rearmost portion being hard surfaced with a large outbuilding and driveway. As a result of the proposals more of the site would be covered by development and therefore there is likely to be an increase in surface water run-off. This would need to be disposed of adequately to ensure that the gardens of adjoining neighbouring properties were not subject to increased run off.
18. However, given that the scheme is for a limited number of dwellings and is in outline form only I have seen nothing to suggest that a suitable scheme to mitigate against increased surface water run off could not be achieved and implemented on site. Therefore, I see no reason to disagree with the comments of the Council's drainage team that such a scheme could be achieved through the imposition of a condition.
19. For the reasons above, I conclude that subject to an appropriately worded condition the proposal would not be harmful to the living conditions of the occupiers of the adjacent property with particular regard to surface water drainage. The proposal would be in accordance with paragraph 17 of the Framework that requires that development should always seek to provide a good standard of amenity for all existing and future occupants of land and buildings.

Other matters

20. I note that the Council has requested that a financial contribution towards the improvement of junior/toddler play equipment at Everest Road, as a result of the development. The Council indicate in their Committee report that a formal agreement under Section 106 of the Act is already in place securing such a contribution. I have though only been in receipt of a draft copy of an agreement which is not signed or sealed. Nor have I been supplied with any details as to whether the contribution would be compliant with Regulations 122 and 123 of the Community Infrastructure Levy Regulations 2010.
21. In any case following a recent decision of the Court of Appeal¹ the Planning Practice Guidance (the PPG) has been amended and it states that affordable housing and social infrastructure contributions should not be sought from developments of less than 10 dwellings. Therefore in accordance with the PPG I do not consider that a contribution towards play equipment should be sought in respect of this development.

Conditions

22. I have had regard to the various planning conditions that have been suggested by the Council and considered them against the tests in the Framework and the advice in the PPG and have made such amendments as necessary to comply with those documents. In the interests of clarity it is appropriate that there is a condition requiring that the development is carried out in accordance with the approved plans.
23. I have already referred to a number of necessary conditions in the main issues. As well as these, further conditions in relation to the implementation of the access, including a construction management plan, are required in the interests of highway safety. The construction management plan needs to be submitted prior to any development occurring on site to ensure that highway safety is maintained from the start of any development including demolition.
24. Given that part of the site was used for car repairs then I would concur with the comments of the Council's Environmental Health officer that a condition is required regarding contaminated land in the interests of public safety.
25. Conditions regarding the submission of details of materials and boundary treatment are necessary to protect the character and appearance of the area.

Conclusion

26. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

Zoe Raygen

INSPECTOR

¹Secretary of State for Communities and Local Government v West Berkshire District Council and Reading Borough Council [2016] EWCA Civ 441

SCHEDULE OF CONDITIONS

- 1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: 882.01 and 882.02
- 5) No development shall take place until a construction phase traffic management plan showing details of all associated traffic movements, including delivery vehicles and staff/construction movements, any abnormal load movements, contractor parking and welfare facilities, storage of materials and traffic management requirements on the adjacent highway, has been submitted to and approved in writing by the local planning authority. Once approved the plan shall be implemented, reviewed and updated as necessary throughout the construction period.
- 6) Other than site clearance and preparation works no works shall commence on the construction of the hereby permitted dwellings until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 7) Other than site clearance and preparation works no works shall commence on the construction of the hereby permitted dwellings until details of the private driveway, including construction, drainage, lighting and where appropriate signage/street naming arrangements, have been submitted to and agreed in writing with the local planning authority and no dwelling on the site shall be occupied until the private driveway has been constructed in accordance with the approved details. Once constructed the private driveway shall be retained at all times
- 8) Other than site clearance and preparation works no works shall commence on the construction of the hereby permitted dwellings until details of the method of providing off-road servicing facilities shall be submitted to the local planning authority beforehand. These facilities shall be incorporated into the private driveway serving the proposed dwellings and shall be provided in accordance with the approved details prior to the occupation of any dwelling on the site. Once provided the servicing facilities shall thereafter be retained at all times.
- 9) No dwelling hereby permitted shall be occupied until surface water drainage works have been implemented in accordance with details that have been submitted to and approved in writing by the Local Planning Authority. None of the dwellings shall be occupied until it is connected to the approved drainage system.

- 10) Prior to the occupation of the first house details of the boundary treatments to be built/planted shall be submitted to and agreed in writing by the local planning authority. The details shall include the positions, design, material and type of boundary treatment to be built/planted. The approved details shall be implemented prior to the last house being occupied and retained thereafter.
- 11) Within 3 months of the completion of the new access, any redundant access to the site shall be removed and the area reinstated to footway/verge (including the provision of full height kerbs) in accordance with details to be submitted to and approved in writing by the local planning authority.
- 12) No dwelling on the site shall be occupied until the vehicular access to it and the vehicle parking and turning space serving it have been completed and, once provided, the vehicle parking and manoeuvring space shall be retained and kept available for their intended purposes at all times thereafter.
- 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) No more than five dwellings shall be constructed on the site.
- 15) Any gates or gate positions at the vehicular access shall be set back a minimum distance of 5 metres from the nearside carriageway edge.
- 16) No loose material shall be placed on any driveway or parking area within 10 metres of the adopted highway unless measures are taken in accordance with details to be submitted to and approved in writing by the local planning authority to prevent the material from spilling onto the highway. Once agreed and implemented these measures shall be retained.
- 17) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that order with or without modification), nothing shall at any time be erected, retained, planted or allowed to grow over 1.05 metres in height above the level of the adjoining carriageway for a distance of 2 metres from the highway boundary across the site frontage.