
Appeal Decision

Site visit made on 1 November 2016

by Geoff Underwood BA(Hons) PGDip(Urb Cons) MRTPI IHBC

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

Decision date: 16 November 2016

Appeal Ref: APP/E2530/W/16/3155918

6 Mount Street, Grantham, Lincolnshire NG31 6PE

- 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 & Mrs C Birch against the decision of South Kesteven District Council.
 - The application Ref S16/1186, dated 17 November 2015, was refused by notice dated 30 June 2016.
 - The development proposed is detached dwelling to the rear.
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Decision

1. The appeal is allowed and planning permission is granted for detached dwelling to the rear at 6 Mount Street, Grantham, Lincolnshire NG31 6PE in accordance with the terms of the application, Ref S16/1186, dated 17 November 2015 subject to the conditions in the attached schedule.

Procedural Matter

2. I have added the house number to the site address in the heading and decision above for clarity as this was missing from the site address on the original application form.

Main Issue

3. The main issue raised by this appeal is the effect the proposed development would have on the living conditions of occupiers of neighbouring properties.

Reasons

4. The proposed house would be located within a garden to the rear of a detached house. The garden is bounded to the south by the rear wall of a single storey building, to the east by the garden of a bungalow at 15 North Parade and to the north by the very long, narrow garden which extends from the rear of 17 North Parade to Mount Street.
 5. The proposed house would be two storey and present a gable elevation towards the garden of No 17. First floor windows in the front and rear roof slopes would be of a half dormer type with the eaves slightly higher than the middle of the windows. The drawings indicate that the gable would be offset from the boundary with No 17 by 2.75m at the nearest point although this gap increases towards the north east corner of the proposed house.
 6. Planning permission was granted in April 2016 for a chalet bungalow which would occupy a very similar footprint to that of the appeal proposal albeit that
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the drawings show it would have a ridge and eaves level approximately 1.5m lower than those of the appeal proposal. The scheme which has the benefit of this permission is a consideration to which I have given material weight in my assessment of the appeal.

7. The proposed house would be a conspicuous feature when viewed across the relatively open gardens to the rear of properties to the north of No 15. However, whilst it would be apparent and would be likely to cast a shadow over parts of the gardens at certain times of the day and year due to their relative orientation, the house would be situated far enough away from the boundary to avoid its height, scale and massing from creating a harmful overbearing effect on those using the adjoining gardens. The distance the house would be set back from the rear elevation of No 15 would mean that the proposal would not have an overbearing or other adverse effect on the outlook from that property or its garden.
8. That previous chalet bungalow scheme included dormer windows at a similar height and position to those on the proposed house. Although those would be set back slightly from the eaves, they would be situated a similar distance from the rear elevations of 6 Mount Street and No 15 as those in the appeal proposal. Whilst both windows in the east elevation would serve bedrooms, as opposed to one dormer serving a bathroom in the previous scheme, the degree of any overlooking which may be able to occur would not be materially more intrusive to that of the approved scheme. The drawings show separation distances of over 28m from the rear windows of No 15 and 21m from those in No 6. Although they are at a lower level than the appeal site, Nos 17 and 19 North Parade are situated considerably farther away from the proposed house.
9. Whilst areas of neighbouring gardens would be nearer there is little evidence to suggest that views of them from windows in the proposed house would be unacceptably intrusive. The living conditions of neighbouring dwellings would not be materially harmed as a result of any overbearing effect or loss of privacy. Any less than harmful effects which might arise would not be materially greater than those which would result from the approved scheme.
10. The proposal would not be in conflict with Local Development Framework for South Kesteven – Core Strategy, 2010 Policy EN1 which requires development proposals to be assessed in relation to visual intrusion amongst other criteria. It would also accord with the National Planning Policy Framework's (the Framework) core planning principle of always seeking to secure a good standard of amenity for all existing and future occupants of land and buildings.

Other Matters

11. The site is located immediately outside the Grantham Conservation Area and is within sight of a group of grade II listed buildings at 3-11 (odd) North Parade. Although the proposal's effect on these heritage assets is not a matter of dispute between the main parties I am required to address these matters. The Conservation Area covers the town centre of Grantham and the streets of considerable architectural merit which extend from it resulting in an attractive and historic character and appearance from which it derives much of its significance.

12. Having paid special attention to the desirability of preserving or enhancing this character and appearance, the proposed building would have a neutral effect on the setting of the Conservation Area and therefore preserve its significance.
13. The proposal would affect the wider setting of the rear of the listed buildings which are a short terrace of imposing Georgian townhouses. This setting is mainly one of rear gardens, outbuildings and other dwellings. The scale of the proposed dwelling and its considerable distance away from the terrace is such that it would have a very limited effect on their setting and that which it would have would be neutral, thereby preserving the significance of the heritage assets.
14. Therefore, in having had special regard to the desirability of preserving the buildings' setting I consider that the proposal would do so and in reaching this conclusion I note that this accords with that of the Council in these respects.
15. Whilst the gap between No 6 and the boundary only provides limited width for the proposed vehicular access I have been presented with little reason that this would be so constrained as to prevent such access or that any particular harm would result from this arrangement which could not be addressed by way of a planning condition. There is no substantive evidence that the proposed dwelling would be occupied other than as a single household and the potential tenure of the property is not a matter to which I have given any material weight.
16. I can see no reason why the grant of planning permission would negate or supersede any private legal rights such as those referred to by interested parties in respect of the access to Nos 17 and 19 from Mount Street. Accordingly, this has not had a material bearing on my assessment of the planning issues in this appeal.

Conditions

17. The Council have suggested, without prejudice, conditions which could be attached if the appeal is allowed although I have also referred to those attached to the previous planning permission given its similarity to the appeal proposal and considered both in light of the Planning Practice Guidance, making appropriate changes. It is necessary to specify the approved plans and require approval of levels as this provides certainty. Materials need to be approved in the interests of preserving the area's character and appearance. Drainage needs to be approved to ensure that flooding is avoided and foul water appropriately disposed of. Parking and turning spaces are required to be provided and retained in the interests of highway safety. Such conditions should address the concerns of interested parties in respect of these last two matters.
18. Given the relationship between the proposed house and the two existing dwellings between which it would be located it is, exceptionally, necessary to withdraw permitted development rights for extensions and alterations to the roof to avoid any loss of privacy to occupiers of existing or the proposed dwellings. Although it is not necessary to remove all such rights there is also a requirement to prevent additional windows being inserted above ground floor level for the same reason. In order to ensure that occupiers of No 6 are not unacceptably disturbed by cars passing close by, the new dwelling should not be occupied until the side window in that property (which is in the appellants'

control) is blocked up. Boundary treatments need to be approved to avoid loss of privacy to gardens and to ground floor windows. Similarly, obscure glazing needs to be installed in the first floor shower room window.

Conclusion

19. For the above reasons, and having had regard to all other matters raised, the proposal would not harm neighbours' living conditions and would comply with the development plan and the Framework. The appeal is therefore allowed.

Geoff Underwood

INSPECTOR

Schedule of Conditions

- 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: 234PL04-01, 234PL04-02, 234PL04-03 and 234PL04-04, received on 5 May 2016.
- 3) No development shall take place until full details of the existing and finished levels, above ordnance datum, of the site and ground and first floors of the proposed building, in relation to existing ground levels and with reference to those of neighbouring properties have been submitted to and approved in writing by the local planning authority. Prior to any construction taking place the land shall have been graded in accordance with the approved details and the development shall subsequently be carried out in accordance with the approved levels.
- 4) No works to any external elevations shall commence 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. The development shall be carried out in accordance with the approved samples.
- 5) The development hereby permitted shall not be occupied until surface and foul water drainage works have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority and incorporated in the details as appropriate.
- 6) The development hereby permitted shall not be occupied until space has been laid out within the site in accordance with drawing No 234PL04-1 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 the parking and turning of vehicles.

- 7) The development hereby permitted shall not be occupied until boundary treatments have been implemented in accordance with a scheme which has been submitted to and approved in writing by the local planning authority beforehand. The approved scheme shall be retained for the lifetime of the development.
- 8) The development hereby permitted shall not be occupied until the first floor window in the south, side elevation has been fitted with obscured glazing, and no part of that window that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the window is installed and once installed the obscured glazing shall be retained thereafter.
- 9) 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 development permitted by Schedule 2, Part 1, Classes A, B or C of that Order shall be carried out including that no windows other than those expressly authorised by this permission shall be constructed above ground floor level on any elevation or roof slope.