
Appeal Decision

Site visit made on 10 August 2017

by D Guiver LLB(Hons) Solicitor

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

Decision date: 23 August 2017

Appeal Ref: APP/E2530/W/17/3176415

1-2 Newtown Court, Water Street, Stamford, Lincolnshire PE9 2NQ

- 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 Mrs Sarah Laing against the decision of South Kesteven District Council.
 - The application Ref S17/0099, dated 17 January 2017, was refused by notice dated 31 March 2017.
 - The development proposed is the demolition of an existing dwelling and the erection of two dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of an existing dwelling and the erection of two dwellings at 1-2 Newtown Court, Water Street, Stamford, Lincolnshire PE9 2NQ in accordance with the terms of the application, Ref S17/0099, dated 17 January 2017, subject to the attached schedule of conditions.

Preliminary Matters

2. I have adopted the descriptions of the appeal site and the proposed development from the planning appeal form as these are more precise

Main Issues

3. The main issues are the effect of the proposed development on the character and appearance of the area and on the living conditions of the occupants of neighbouring dwellings and future occupants of the proposed dwellings.

Reasons

Character and Appearance

4. The appeal site sits just outside the boundary of the St Martin's Conservation Area where Water Street merges into Station Road, and close to the railway line that runs south of Stamford. To the south of the appeal site the road rises to a humpbacked bridge over the railway line. The bridge has high walls and there is a footpath on the eastern side only. The view from the summit of the bridge down towards Water Street is framed by the bridge's high walls and the location of the footpath restricts any view of the appeal site for most of the bridge's length.

5. When approaching the site from the north the existing building sits lower than the surrounding buildings with exception of the dwellings at Nos 1 to 5 Welland Mews, and considerably lower than recent developments Baron's Way and Newtown Court immediately to the west and east of the appeal site respectively. However, the dominating feature of the street is the high walls and narrow carriageway of the railway bridge.
6. The appeal site comprises a two-storey cottage of rendered block with little architectural merit together with a garage/workshop and a small garden plot. The proposal is to demolish these buildings and to construct two two-storey dwellings on the site with additional living space in the attic of each property. The dwellings would be constructed using the predominant local stone, slate roof tiles and timber doors and windows. The main facades of the dwellings would be rendered to match the stone.
7. The constrained nature of the site would result in the loss of the garden space to the dwellings and outdoor amenity space would comprise enclosed terraces to the dormer roofs. Each dwelling would also incorporate a garage. The dwellings would rise to a similar height to the other dwellings on Newtown Close and the nearby buildings at Baron's Way.
8. I consider that the scale and design of the proposed dwellings would be sympathetic to the surrounding area and consistent in scale to the recent developments in Newtown Close and Baron's Way. Therefore, I conclude that the proposed development would be in accordance with Policy EN1 of the Local Development Framework for South Kesteven Core Strategy 2010 (the Local Plan) which, amongst other things, seeks to ensure that developments respect the character and appearance of the area and are not visually intrusive.

Living Conditions

9. The constraints of the appeal site mean that the proposed dwellings would be built close to the side elevation of the adjacent development at Newtown Court. There are two windows on each of the two floors on this elevation which serve dwellings on the ground-floor and first-floor. The proposed development would impact on the amount of light received through the windows. However, the existing building already sits close to the adjacent development and at ground-floor level the proposal would be unlikely to have any significant additional impact.
10. The original scheme for the adjacent development proposed only one window on each floor, which was a secondary window for the kitchen area, the main light source being the large glazed doors on the southern elevation. The second window was added to provide a modicum of daylight for the bathroom in each unit. These windows are relatively small and sit north of a dog-leg in the elevation that puts the northern half of this wall a metre or so east of the southern half. These small windows are therefore predominantly in shade and I consider that the proposed development would not cause any unacceptable loss of daylight.
11. An interested party raised a concern about the possible detrimental effect on the daylight received at 1 Welland Mews, which sits directly north of the appeal site. No 1 has a faceted construction at the front of the property, which faces out onto Water Street. The proposed construction would sit significantly higher than this part of the building at No 1, which on the first floor largely comprises

glazing allowing natural light to enter the property. However, No 1 sits close to the existing building at the appeal site but is further back from the street and is downhill from the appeal site.

12. The slope of the roof of the existing building would allow for the windows at No 1 to receive daylight from the south but the current proximity and relative positions on the incline would inevitably limit this and the majority of light would enter the rooms served by these windows from the windows facing north and west, which are unobstructed. I consider that the proposed development would be unlikely to have any significant unacceptable effect on the daylight received at No 1 and I note that this was not a matter raised by the Council.
13. The Council's third reason for refusal was that the appellant had not provided an up-to-date noise assessment that was requested due to the proximity of the railway line and therefore the Council was concerned about the impact of noise on the living conditions of future occupiers of the proposed development. Since the date of the decision notice the appellant has provided a recent assessment.
14. The Council states that the more recent noise assessment is deficient because it has not identified other sources of potential noise that might affect the living conditions of future occupiers, such as traffic and industrial noise. I note that the Council did not request any assessment other than for railway noise and has presented no evidence that there is a concern about alternative sources of noise.
15. I consider that the appellant's report provides a thorough assessment of noise sources at the appeal site and proposes sensible and achievable remedial measures.
16. In its decision notice the Council referred to Policy EN1 of the Local Plan to support its refusal on the ground of adverse impact on the living conditions of the occupiers of adjacent properties and on future occupiers of the proposed dwellings. However, Policy EN1 deals with character and appearance and there is no clear reference to the impact of developments on the living conditions of the occupiers of neighbouring properties. References to light and noise relate to the effect of pollution from these sources on the character of an area, and clearly the source of the pollution would need to arise from the proposed development.
17. I have not been referred to any other policy and consider that Policy EN1 is irrelevant for the purposes of the second and third grounds for refusal. I have therefore assessed these issues against the National Planning Policy Framework. I have concluded above that the proposed development would be unlikely to have any unacceptable detrimental effect on the living conditions of the occupiers of neighbouring properties. I also conclude that, if the remedial measures identified in the noise assessment are implemented, proposed development would be unlikely to have any unacceptable detrimental effect on the living conditions of future occupiers of the dwellings.

Conditions

18. 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.

19. 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 including a condition relating to external facing materials to protect the character and appearance of the area.
20. The Council has suggested a condition restricting the exercise of rights under Class A Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015. The Council believes that such restrictions are necessary to preserve the character and appearance of the area and to protect the living conditions of the occupiers of neighbouring dwellings by overlooking as a result of future development.
21. While I consider these are not issues with the development as proposed, future alterations could adversely impact on the character and appearance of the area or the living conditions of the occupiers of neighbouring properties, given the relationship of the plot with its neighbours. For these reasons I have attached a condition restricting the exercise of rights under Class A.
22. To minimise the impact of the proposal on the occupiers of other properties and on the character of the area I have imposed a condition relating to site levels and to avoid a detrimental effect on the future occupiers of the development I have imposed a condition relating to noise mitigation measures.

Conclusion

23. For the reasons given above, and taking into account all other matters, I therefore conclude that the appeal should succeed.

D Guiver

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: 1707 A002; 1707 PL100; 1707 PL101; 1707 PL102; and 1707 PL103.
- 3) The external surfaces of the development hereby permitted shall be constructed in the materials shown on plan no. 1707 PL103 and within the Design and Access Statement dated January 2017.
- 4) No development shall take place until full details of the finished levels, above ordnance datum, of the ground floors of the proposed buildings, in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.
- 5) Development shall not commence until drainage works for 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.
- 6) The development shall be constructed in accordance with noise mitigation measures recommended in the noise assessment dated May 2017 carried out by Acoustic Associates (Peterborough). All works which form part of the scheme shall be completed before any part of the development is occupied and retained thereafter.
- 7) 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 enlargement, improvement or other alteration other than those shown on the approved plans shall be made to the dwelling hereby permitted.