The Planning Inspectorate

Appeal Decision

Site visit made on 18 January 2018

by D. M. Young BSc (Hons) MA MRTPI MIHE

an Inspector appointed by the Secretary of State

Decision date: 9th February 2018

Appeal Ref: APP/F2415/W/17/3181598
Land adjacent to 44a St Mary's Road, Market Harborough, Leicestershire, LE16 7DU.

- 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 John Snape against the decision of Harborough District Council.
- The application Ref 17/00838/FUL, dated 19 May 2017, was refused by notice dated 5 July 2017.
- The development proposed is a two storey house.

Decision

1. The appeal is allowed and planning permission is granted for a two storey house at land adjacent to 44a St Mary's Road, Market Harborough, Leicestershire, LE16 7DU in accordance with the terms of the application, Ref 17/00838/FUL, dated 19 May 2017, subject to the following 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: 01, 02, 03, 04 and 05.

   3) Details of soft landscape works to the southern section of the site, abutting the River Welland wildlife corridor, shall be submitted to and agreed in writing with the Local Planning Authority. The agreed scheme shall be implemented prior to first occupation of the dwelling and shall be so retained thereafter.

   4) The first floor windows in the eastern elevation of the dwelling hereby approved shall be glazed with obscure glass.

Main Issues

2. The main issues are the effect of the development on:
   (a) the living conditions of neighbouring occupiers with particular regards to outlook, daylight and privacy;
   (b) levels of on-street parking, and
   (c) ecology.

Reasons

Living conditions

3. The northern elevation of the proposed dwelling would face towards the rear wall of an Indian restaurant that contains non-habitable/frosted windows. Whilst there are habitable room windows at first-floor level, these would be recessed some distance from the proposed dwelling behind the existing rear wing. Accordingly, there would be no unacceptable loss of privacy, outlook or sunlight to the occupiers of No 44.

4. To the east are the rear gardens of Nos 48 and 50. Although some overlooking might occur from the first floor bedroom windows, the appellants have confirmed that these windows could be obscured glazed. On that basis there would be no unacceptable loss of privacy to these occupiers. Given the height, siting and orientation of the proposed dwelling, I do not consider there would be any significant loss of sunlight or outlook to neighbouring properties.

5. Based on the foregoing, I conclude that the development would not harm the living conditions of neighbouring occupiers with particular regards to outlook, daylight and privacy. There would thus be no conflict with Policy CS11 of the "*Harborough District Local Development Framework: Core Strategy 2011*" (the CS)) and Policy HS/8 of the "*Harborough District Local Plan*" (the LP) as well as paragraph 17 of the "*National Planning Policy Framework*" (the Framework). Collectively these seek to protect the amenity of the occupants of neighbouring residential properties.

Parking

6. The site is within Market Harborough town centre where it is not unusual for properties to lack off-street. The site boasts excellent sustainability credentials with local shops, community facilities, supermarkets, bus stops, the town's train station and a Council pay and display car park all within convenient walking distance. Moreover, as on-street parking controls are already in force along St Mary's Road, I am satisfied that the development would not give rise to obstructive or dangerous on-street parking in the local area. On that basis, there would be no conflict with CS Policies CS5 and CS11.

Ecology

7. The proposed development would involve the demolition of the existing building. Advice from Natural England advises that the presence or otherwise of protected species, and the extent to which they might be affected by the proposed development, must be established before planning permission is granted. However, it also states that surveys should only be requested where there is a reasonable likelihood of protected species being present on the site, or affected by the development.

8. Other than pointing to the site's proximity to the River Welland, the Council has not submitted any cogent evidence to demonstrate there is a reasonable likelihood of bats being present. The appellants' state there is no evidence of bats around the property.

9. On my site inspection I noted that the roof and overall condition of the existing building is good. Based on the above and given any meaningful evidence to the contrary, I do not consider there is a reasonable likelihood of bats being

present. There would thus be no conflict with section 11 of the Framework or CS Policy CS8 (d) which seek to protect, manage and enhance biodiversity.

Conditions

10. The Council has not suggested any planning conditions. To provide certainty I have imposed the standard implementation condition as well as a condition to ensure that the development is carried out in accordance with the approved plans. I have also imposed a landscaping condition in relation to that part of the site that abuts the river corridor. This is to ensure continuity of the wildlife corridor and to protect any ecological assets that might be present. Finally to protect the privacy of neighbouring occupiers, I have imposed a condition to ensure windows in the eastern elevation are obscured glazed.

Conclusion

11. Based on the foregoing and having regard to all other matters raised, I conclude that the appeal should succeed.

D. M. Young

Inspector