



Appeal Decision

Site visit made on 3 September 2019

by J Hunter BA (Hons) Msc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th October 2019

Appeal Ref: APP/Y2003/W/19/3231942 5, Northlands Road, Winterton DN15 9PZ

- 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 The Johnson Family Trust against the decision of North Lincolnshire Council.
 - The application Ref PA/2018/1396, dated 16 July 2018, was refused by notice dated 17 January 2019.
 - The development proposed is described as outline application for the erection of 5 dwellings off a private drive, erection of a detached garage to serve no.5 and demolition of part of existing outbuilding.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 5 dwellings off a private drive, erection of a detached garage to serve no.5 and demolition of part of existing outbuilding at 5, Northlands Road, Winterton DN15 9PZ in accordance with the terms of the application, Ref: PA/2018/1396, dated 16 July 2018, subject to the attached schedule of conditions.

Procedural Matter

2. The planning application is submitted in outline with all detailed matters reserved except for access. An indicative layout (Sketch Layout 1:500, July 2018) accompanies the outline planning application and I have taken this into account insofar as establishing whether or not it would be possible, in principle, to erect five dwellings on the site.

Main Issues

3. The main issues are (i) the effect of the proposal on the living conditions of neighbouring residents having regard to noise and disturbance, (ii) the effect of the proposal on the character and appearance of the area, and; (iii) whether the proposal would preserve or enhance the character or appearance of the Winterton Conservation Area (CA).

Reasons

Living Conditions

4. The appeal site is a rectangular shaped parcel of land to the rear of the host property no. 5 Northlands Road. The host dwelling sits on the eastern boundary adjacent to a collection of traditional outbuildings. The existing

access runs between the dwelling and the outbuildings. The northern and southern boundaries are flanked by the rear gardens of existing residential dwellings and the western boundary adjoins a care facility.

5. The proposal includes the development of five residential dwellings off a single private access onto Northlands Road. A single storey element of the existing outbuildings would be demolished to facilitate the construction of the private driveway serving the proposed dwellings.
6. Part (i) of Policy H7 of the North Lincolnshire Local Plan 2003 (LP) makes provision for backland development if there is no adverse effect on residential amenity caused by, (a) overlooking and loss of privacy; (b) loss of amenity area to the adjoining dwellings and; (c) nuisance resulting from the movement of vehicles to and from the proposed development.
7. The Council does not raise any specific concerns in respect of overlooking/privacy or loss of outside amenity space. However, I note that in terms of these matters, concern has been raised by other interested parties. The proposal is in outline form and matters of design, layout and scale would be determined as part of a subsequent reserved matters stage. Nonetheless, the indicative layout shows that the five residential units (the appellant refers to dormer bungalows) could be comfortably accommodated whilst maintaining satisfactory living conditions in terms of outlook, privacy and outside amenity space for both existing and future residents. I am therefore content that such matters could be addressed in detail at the reserved matters stage.
8. I acknowledge that the erection of five dwellings on the appeal site would lead to additional traffic movements in the area. However, I have no reason to disagree with the conclusions reached by the Highway Authority that it would be possible to erect five dwellings on the site without significant harm being caused to matters of highway safety.
9. Similarly, I do not consider that the relatively limited increase in traffic movements associated with the development of five dwellings would have a detrimental effect on residential amenity in terms of noise and disturbance. With appropriate boundary treatment to the south, and taking into account the number of dwellings proposed, I am satisfied that noise and disturbance effects could be suitably controlled by means of the imposition of a boundary treatment condition.
10. Subject to the imposition of planning conditions, the proposal would not lead to any significantly adverse impacts from a noise and disturbance point of view. Therefore, I conclude that the proposal would accord with Policy H7 of the LP as set out above.

Character and Appearance

11. Part (ii) of Policy H7 of the LP requires that new backland development should not affect the general quality and character of the area in which it is located. The area surrounding the appeal site is characterised by a range and diversity of development types and plot sizes. The new development adjoining the southern boundary of the site is predominantly two and three storey detached and semi-detached properties, the northern boundary is bounded by a row of properties that range from single storey detached dwellings to two storey semi-

detached and the host property is a traditional double fronted detached cottage.

12. Similarly, the plot sizes vary widely, the more traditional properties that front Northlands Road appear to have longer rectangular rear gardens whereas the more modern properties in Saffre Close and De Lacy Way have more compact areas of outdoor space. There are also several examples of cul-de-sacs and secondary developments where properties do not have main road frontage.
13. Consequently, I do not share the Council's view that residential development on the site would in principle be out of character with the surrounding area. Whilst the submitted layout is only indicative, it nonetheless demonstrates that in principle the site is capable of accommodating five properties with private outdoor amenity space and an access road that would generally be in keeping with the prevailing character and appearance of the surrounding area.
14. For the above reasons, I conclude that I do not find conflict with the requirements of Policy H7 of the LP as set out above.

Conservation Area

15. Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the decision maker to pay special attention to the desirability of preserving and enhancing the character or appearance of Conservation Areas. Policy HE2 of the LP and CS6 of the North Lincolnshire Local Development Framework Core Strategy 2011 (CS) also seek to protect and enhance the character of Conservation Areas within the Borough.
16. The host property and the adjacent outbuildings sit on the edge of the Winterton Conservation Area (CA) and the Council identifies the host dwelling and adjacent outbuildings as being of Townscape Merit thereby making a positive contribution to the character and appearance of the CA. On the evidence that is before me, I do not disagree with this view.
17. I note the Conservation Officer's comments in relation to the fact that the partial demolition of the outbuildings that front Northlands Road would result in some harm to the character and appearance of the CA. The demolition of this small section of building would create a larger break in the frontage that would alter the appearance of this part of the CA and therefore I would concur with the views of the Conservation officer.
18. In isolation, the demolition element of the appeal proposal would lead to less than substantial harm taking into account paragraph 196 of the Framework. However, I agree with the Council's Conservation Officer who suggests that a detailed scheme incorporating a well-designed entrance using walls constructed from traditional materials would mitigate the harm caused by the partial demolition of the outbuilding. On this basis, and subject to the imposition of a planning condition which required the submission, approval and implementation of such an entrance wall(s), the overall effect on the character and appearance of the CA would be neutral.
19. For the above reasons, I conclude that subject to the imposition of a planning condition, the proposal would preserve the character and appearance of the CA. Therefore, it would accord with the conservation requirements of Section 16 of the Framework.

Other Matters

20. I have taken into account all representations made by other interested parties.
21. I have considered comments made about a reduction in property values. The Courts have held that this is not a material planning consideration. In any event, I have no objective evidence before me to demonstrate that the proposal would lead to a reduction in property values. Comments have been made by numerous third parties about loss of privacy, outlook and light. The submitted plans are indicative and layout and appearance are reserved for a subsequent reserved matters application. However, it would be possible to erect dwellings on the site in such a way that reasonable separation distances were in place and so that an acceptable level of privacy, outlook and light were maintained for future and existing occupiers of the site and the neighbouring properties. Additionally, there have been comments made in relation to the scale of dwellings, appropriateness of boundary treatments and separation distances. These are all matters to be determined at the subsequent reserved matters stage.
22. I have considered comments made about wildlife on the site and the appellant's Preliminary Ecological Appraisal (MRB Ecology and Environment). Based on the evidence before me, I conclude that the proposal would not cause harm to wildlife or matters of biodiversity.
23. I am aware that in recent years there have already been some houses allowed and built in Winterton. Some interested parties have suggested that the cumulative effect of such developments is having an adverse impact on existing infrastructure and services including waste service provision. However, in respect of these matters there are no objections made by internal consultees within the Council or by other statutory consultees. Therefore, and in the absence of any objective evidence to demonstrate that the proposal would not in principle be capable of being accommodated on the site from an existing infrastructure/services point of view, I am not persuaded that the proposal would lead to any significant adverse effect in this regard.
24. Finally, with regard to comments made about land ownership, there is nothing compelling before me to suggest that ownership certificates were incorrect. If it transpires at a later stage that there are other owners of the land, then that may or may not preclude the implementation of the planning permission. I am aware that comments have been made suggesting that the Council failed to properly notify residents of the planning application which preceded this appeal. This is a matter which will need to be taken up separately with the Council although I do note that there were a lot of representations made by other interested parties many of which live close to the site.
25. None of the other matters raised outweigh my overall conclusion on the main issues.

Conditions

26. The conditions set out in the accompanying schedule are based on those suggested by the Council. Where necessary I have amended the wording of the suggested conditions, in the interests of precision and clarity, and in order to comply with advice in the Planning Practice Guidance.

27. Planning permission is granted subject to the standard reserved matters conditions. Otherwise than as set out in this decision and conditions, it is necessary that the development shall be carried out in accordance with the approved plan, for the avoidance of doubt and to clearly identify the site. I have therefore imposed a condition to this effect.
28. The Council has suggested a number of conditions that relate to appearance and layout, including those relating to plot boundary treatments, surfacing materials, lighting and general layout. These conditions are not necessary at this stage as these matters will form part of the subsequent reserved matters application.
29. The Council has suggested a condition which restricts the number of residential units on the site to no more than five. This is a reasonable and necessary condition in so far as it defines the scope of the permission, reflecting the description of development, and in addition my determination as to the acceptability of the proposal in principle has been based solely on up to five residential units being erected on the site.
30. In the interests of the living conditions of the occupiers of the proposed dwellings and surrounding dwellings, it is necessary to impose conditions relating to foul/surface water scheme details and land contamination, site working hours and archaeological investigation.
31. In the interests of highway safety, it is necessary to impose conditions that relate to access, construction phase traffic management and the retention of appropriate visibility splays.
32. Finally, in accordance with paragraph 170 of the Framework which requires planning policies and decisions to provide net gains to biodiversity, I have imposed a condition requiring a biodiversity management plan.

Conclusion

33. For the reasons outlined above, and taking into account all other matters raised, the proposed development would not have a detrimental impact upon the living conditions of neighbouring residents; the character and appearance of the area and would preserve the character and appearance of the CA. Therefore, and taking into account all other matters raised, I conclude that the appeal should be allowed.

J Hunter

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plan: Location and Site Plan 1:1250.
- 2) Details of the 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.
- 3) 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.
- 4) 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.
- 5) The development hereby permitted shall not exceed five dwellings.
- 6) Prior to the erection of any dwellings on the site, a scheme for the disposal of foul and surface waters shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details prior to the first occupation of the dwellings and shall be retained and maintained as approved thereafter.
- 7) 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.
- 8) Demolition or construction works shall take place only between 7am and 7pm on Monday to Friday and 7am to 1pm on Saturday and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 9) Before the development is first occupied or brought into use a biodiversity management plan shall be submitted to and approved in writing by the Local Planning Authority. The biodiversity management plan shall be carried out as approved and shall include;
 - (a) details of at least two bat roosting features to be installed;
 - (b) details of nesting sites to be installed to support a variety of bird species;
 - (c) restrictions on lighting to avoid impacts on bat roosts, bat foraging areas, bird nesting sites and sensitive habitats;
 - (d) provision for hedgehogs to pass through any fencing installed between gardens and between areas of grassland;
 - (e) prescriptions for the planting and aftercare of trees and shrubs of high biodiversity value, including local heritage varieties of fruit tree;

(f) details of wetland habitat to be created as part of sustainable drainage, if possible;

(g) proposed timings for the above works in relation to the completion of the buildings.

- 10) No development above slab level shall take place until details of the junction between the proposed estate road and the highway has been submitted to and approved in writing by the Local Planning Authority; and the development shall not be occupied until that junction has been constructed in accordance with the approved details. The junction shall thereafter be retained.
- 11) No shrubs, trees, other vegetation, fence or boundary treatment shall be allowed to grow or be erected above 1.05 metres in height within 2 metres of the highway boundary across the site frontage to Northlands Road.
- 12) No development above slab level 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.
- 13) No development above slab level shall take place until a detailed design of new boundary walls to be created across the site frontage with Northlands Road have been submitted to and approved in writing by the Local Planning Authority. Once approved, the boundary walls shall be built in accordance with the approved details prior to the occupation of the dwellings and thereafter retained.
- 14) No development above slab level shall take place until the applicant, or their agents or successors in title, has secured the implementation of an archaeological mitigation strategy providing for an historic building record and programme of archaeological recording, to be defined in a Written Scheme of Investigation that has been submitted to and approved in writing by the Local Planning Authority. The strategy shall be carried out as approved and shall include details of the following:
 - (i) measures to ensure the preservation by record of historic building fabric and archaeological features of identified importance
 - (ii) methodologies for the recording of the historic buildings and recovery of archaeological remains, including artefacts and ecofacts
 - (iii) post-fieldwork methodologies for assessment and analyses
 - (iv) report content and arrangements for dissemination, and publication proposals
 - (v) archive preparation and deposition with recognised repositories
 - (vi) a timetable of works in relation to the proposed development, including sufficient notification and allowance of time to ensure that the site work is undertaken and completed in accordance with the strategy

(vii) monitoring arrangements, including the notification in writing to the North Lincolnshire Historic Environment Record of the commencement of archaeological works and the opportunity to monitor such works

(viii) a list of all staff involved in the implementation of the strategy, including subcontractors and specialists, their responsibilities and qualifications.