
Appeal Decision

Site visit made on 13 May 2020

by Edwin Maund BA (Hons) MSc Dip UP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th June 2020

Appeal Ref: APP/Z2505/W/19/3243368

Land Off Penny Gardens, Penny Gardens, Kirton Boston Lincolnshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr M Taylor against Boston Borough Council.
 - The application Ref B/19/0180, is dated 1 May 2019.
 - The development proposed is construction of 7no. dwellings.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr M Taylor against Boston Borough Council. This application is the subject of a separate decision.

Procedural Matters

3. A series of plans have been provided by the appellant which were included as part of the discussions which were undertaken with the Council during the consideration of the application. For clarity and to ensure no one is prejudiced I have considered the appeal based on the original plans submitted to the Council.

Main Issues

4. From the evidence I have before me, I consider the main issues to be;
 - The effect of the development on the character and appearance of the area;
 - Whether the development would result in satisfactory living conditions for future residents of the development in particular with regard to plots 5 and 6 and their outlook; and
 - Whether there is adequate surface water drainage for the site.

Reasons

Character and appearance

5. The appeal site is currently an open grassed area interspersed with trees on the inside of the bend of the road serving Penny Gardens, a pleasant residential area which is characterised by verdant greenery and attractive landscaping.

The western side of the road immediately adjacent the site is formed of detached properties set back from the road behind substantial hedgerows. Opposite these properties are wide verges interspersed with street trees, with the housing backing onto the street set behind a brick wall. Immediately opposite the site is a parking court serving the housing either side, set behind a planting area of low shrubs and a wide grass verge.

6. Cumulatively the character and appearance that is created is one of space about buildings framed by greenery whether it be through the landscaping, trees or wide verges, creating space about the properties which provides for a positive and pleasant atmosphere.
7. The appeal proposal would be characterised by large areas of hardstanding serving the parking spaces and access road with very little space to facilitate any planting which might soften the appearance or break up the mass of parking. Whilst the southern aspect would be more verdant with the retention of the street trees and highway verge this is not replicated across the site and would lead to a stark appearance out of character with the locality, particularly on the eastern frontage.
8. I note the appellants view that the parking area to the front of the site is similar to the parking area to the south east on the opposite side of the road, however this is materially different in that it is only three parking spaces serving that group of maisonettes and it is also has a backdrop of landscaping which helps to assimilate it into this location.
9. Whilst the design of the houses themselves is attractive and I note the council do not raise this as an issue, the layout does not result in a positive contribution to the locality and would result in a scheme dominated by car parking which would harm the character and appearance of the area contrary to policies 2 and 3 of the South East Lincolnshire Local Plan (SELLP) (2019) which amongst other things aims to secure a high quality of design that is sympathetic to the character of the area.

Living Conditions

10. The layout provides for 7 properties in 2 blocks of terraces, sat roughly at right angles to each other. Each having modest gardens located to the rear, bar plot 7 where it is off set to the side. Plots 5 and 6 are located to the south of the site with rear gardens orientated north towards the gable ends of the terrace of the other block of proposed houses, with a separation distance of around 9m.
11. Both plots 5 and 6 would face the gable end of plot 3 which would be a predominantly blank gable around 8.5m wide, 5.3m to the eaves, and 8.5m to the ridge. At this distance the outlook of both properties would be dominated by this gable creating a significant sense of enclosure.
12. I do not consider this would result in suitable living conditions for future residents and would therefore fail to accord with policies 2 and 3 of the SELLP (2019) which amongst other things aims to achieve a high standard of design and create good standards of residential amenity.

Drainage

13. The Black Sluice Internal Drainage Board advised the council that evidence would be required to demonstrate that the ground conditions were suitable to facilitate the onsite infiltration storage system included as part of the application.
14. The appellants have confirmed that a percolation assessment was carried out in accordance with the appropriate standards of the British Research Establishment and this information was conveyed to the Council in emails referred to in the Appendices supporting the appellants case.
15. These though were not formally submitted to the Council as part of the proposal. Although I note the Council do consider that it is likely this concern could be overcome. I would, agree however, until such time as the engineer's report has been provided confirming the findings of the percolation tests the safe drainage of the site has not, as yet been demonstrated.
16. This is a full application and there needs to be confidence that surface water run off can be adequately and safely provided within the site and to date the full evidence has not been presented, I do not in these circumstances consider that this could be readily resolved by the imposition of a condition as should it not prove suitable an alternative might lead to significant changes elsewhere.
17. In the absence of a suitable percolation test, that demonstrates the surface water from the development can be safely dealt with I find that the appeal would fail to meet the requirements of policies 2, 3, and 4 of the SELLP (2019) which amongst other things seek to ensure developments provide sustainable methods of drainage.

Other Issues

18. Various matters including on road parking and potential congestion, noise, light pollution and the capacity of the sewerage system have been raised by third parties and the Parish Council, while the Council's archaeologist has advised that an archaeological evaluation should be prepared, as I am dismissing the appeal in respect of the main issues I have not considered these matters further.
19. I recognise that the development would bring positive benefits by providing 7 additional residential units in a sustainable location and that during construction economic benefits would arise. Nevertheless, despite these benefits, I do not consider they outweigh the harm I have identified under the main issues.

Conclusions

20. For the above reasons I conclude the appeal should be dismissed.

Edwin Maund

INSPECTOR