
Appeal Decision

Site visit made on 3 July 2020

by S Harley BSc(Hons) MPhil MRTPI ARICS

an Inspector appointed by the Secretary of State

Decision date: 9th July 2020

Appeal Ref: APP/Z2505/W/19/3242853

New Castle Inn, 36 Fydell Street, Boston PE21 8LF

- 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 Dhedhi, The Alrahmin Trust, against the decision of Boston Borough Council.
 - The application Ref B/18/0370, dated 30 August 2018, was refused by notice dated 21 August 2019.
 - The development proposed, as described on the planning application form, is erection of 55 apartments on the site of the New Castle Inn, including all amenity facilities.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are whether adequate provision is made for car parking; the effect of the proposal on the character and appearance of the area; and the effect of the proposal on the living conditions of occupiers of nearby properties taking particular account of outlook and light.

Reasons

3. The appeal site is located at the junction of Fydell Street and Lister Way, an inner relief road that has a dedicated cycle lane. The site is some 0.39ha and includes a vacant public house, which amounts to previously developed land, and a piece of grass land. As the site is within the built up urban area of Boston, and there is permission to change the public house to residential use, there is no objection in principle to residential development of this disused site provided other planning policies and material considerations are satisfied.
4. On the opposite side of Fydell Street, are two storey terraced houses with the Castle Street road junction directly opposite the former public house. To the east, is land used for storage purposes. On the opposite side of Lister Way, is more vacant land and a tyre/auto-centre with houses beyond. Gas Works Path runs along the southern boundary of the appeal site. This crosses the railway line, via a somewhat forbidding underpass, linking Lister Way to Irby Street and then to the town centre beyond. Slightly further to the south is the Asda supermarket and associated access; beyond that is Boston railway station.

Parking provision

5. Policy 3 of the South East Lincolnshire Local Plan March 2019 (the LP) seeks high quality and inclusive design and layout. Policy 3.5 and its reasoned justification explains that good design states developments should meet the requirements of their future occupiers by providing suitable places to store refuse, cycles and park cars. Parking for service vehicles would be from the existing access on Fydell Street. Scooter and bicycle parking would be provided but there would be no on-site car parking for residents or visitors.
6. Policy 36 of the LP advises that parking for residents, employees and visitors should be integral to the design and form of all new development. It requires vehicle and cycle parking in accordance with the minimum Parking Standards at Appendix 6 (the PS) unless it can be demonstrated that lower numbers would result in a balanced provision of suitable allocated and communal parking overlooked and accessible to the development it serves; off-curtilage parking with maximised levels of security and safety for all; and storage for bicycles. The Council advises that 105 spaces for cars and 55 spaces for cycles would be required to meet the minimum PS. The proposals include 20 scooter and 55 bicycle spaces which would be located together with bins in three stores, though the capacity of the proposed stores is not entirely clear from the submitted evidence.
7. The Highway Authority consider that the close proximity of the site to a wide range of services, employment opportunities and public transport within the town means that it would not be essential for residents of the proposed flats to have the use of a motor vehicle to go about their daily lives. Accordingly the Highway Authority consider that operational car parking within the site is not required.
8. The nearby Asda, which is within easy access distance of the appeal site, provides a range of day to day facilities. However, the routes to the town centre boundary, some 0.5km away, and the train and bus stations, whilst of reasonable walking distance, are somewhat circuitous or in places, such as via the Irby Street underpass, not particularly attractive for users especially at night time. Overall though, the site location accords with Policy 3.4 of the LP in terms of availability of alternative travel modes to access places of work, school, local shops and services and with those principles of the National Planning Policy Framework (the Framework) which encourage development in locations where alternatives to the private vehicle are available.
9. However, whilst the location might be *suitable* for non-car occupation, and the apartments would be small, I have seen no evidence to indicate that future occupiers would not have access to a vehicle. I consider there would be a strong likelihood that a significant number of future occupiers of the proposed apartments would have cars, as would many visitors. No innovative measures such as a car club or other mechanism to address or mitigate the likely overspill resulting from the lack of on-site parking have been put forward. No information has been provided in relation to likely car or scooter ownership levels and no Parking Assessment, or Transport Assessment or Travel Plan such as envisaged in Policy 36 of the LP, has been put forward. The appellant could have put forward such evidence as part of this appeal whether or not Officers requested it as part of the planning application process.

10. Fydell Street is a busy two way street with relatively narrow carriageway and footways. It leads up to a traffic signal controlled railway crossing a little way to the east. The junction of Fydell Street and Lister Way is also traffic signal controlled. Both streets have Traffic Regulation Orders prohibiting parking in the vicinity of the site.
11. As I observed during my site visit, nearby streets other than Lister Way, mainly comprise a dense residential environment with high levels of on-street parking. Many are relatively narrow streets with parking restrictions in part. At the time of my visit, on a Friday morning, on street spaces were not readily available close to the appeal site. Whilst I acknowledge this is only a snapshot in time, there is no substantial evidence to suggest that this is not representative of the regular parking situation; indeed some local residents have objected to the proposed development on this basis. Moreover, parking difficulties may be greater in the evenings when residents are at home.
12. Future residents might make use of local car parks. However, the Asda car park is required for its customers. Others such as that at Irby Street and Tunnard Street are further away and are likely to be less than attractive due to likely availability; and the need to walk under/over the railway and/or via a circuitous route, particularly in the late evening/early morning.
13. I consider that, if the appeal were allowed, any future occupiers of the proposed development would be likely to seek to park on streets in an area where, due to the paucity of on street parking or suitable alternatives, parking appears already to be at a premium. The failure to provide satisfactory car parking arrangements would be likely to lead to congestion, increased demands for available parking spaces, and place further pressure upon the existing, limited on street parking opportunities. In turn this could lead to an increase in inappropriate parking; an increase the traffic along these already congested roads and an unacceptable impact on the safe and efficient operation of the highway. The proposal would adversely affect the local capacity of the local road infrastructure and, therefore, would not amount to sustainable development as defined in Policy 2. Accordingly the proposal would not help create places that are safe, inclusive and accessible as envisaged in the Framework.
14. I acknowledge the view of the Highway Authority that the absence of parking other than for routine servicing could minimise slowing, waiting and turning manoeuvres on this busy part of the town's highway network which could be a hazard and an impediment to the free passage of other road users. However, this does not obviate the need to address the impact of nil on-site parking, with no alternative mitigation measures, on the local road infrastructure.
15. There are other cases¹ where parking has not been provided to the requisite standard. This indicates that the PSs can, and are, being applied flexibly, but it is for the appellant to demonstrate how any resultant adverse effects of a shortfall of parking spaces could be addressed. The cited cases are much smaller in scale, in some cases provide some parking, and have a consequently lesser effect on the local roads so do not set a precedent in respect of the scale of the proposal before me. Moreover, as the PSs have been adopted relatively recently I see no conflict between them and the principles in the Framework or the national Planning Policy Guidance which indicate parking standards should

¹ Permission on part of the appeal site Ref B/19/0117; B/19/0131; B/19/0002; and B/19/0204

be imposed where there is clear and compelling justification that it is necessary to manage the local road network, and that factors including car ownership, should be taken into account.

16. For the reasons set out above I conclude that adequate provision would not be made for car parking. The proposal, whilst in terms of distances to services could be considered an accessible location, would not amount to sustainable development or good design as defined in Policies 2, 3 and 36 of the LP. It would therefore conflict with those Policies of the adopted LP and similar principles of the Framework.

Character and appearance

17. The site is on a wide, open junction forming a prominent corner on busy routes into Boston. The area is of mixed uses and the scale and nature of the buildings nearby is very varied. The two storey terraced houses on the other side of Fydell Street are about 7m in height.
18. The proposed apartments would be in three blocks arranged around, and close to, the perimeter of the appeal site with a communal amenity area in a central court. The building layout would create a strong visual impact at the prominent Lister Way junction with twin gabled features and a central glazed entrance feature making a bold statement. The Design and Access Statement indicates the design is heavily influenced by the former gas works, a key feature and cultural aspect of Boston.
19. However, the blocks at mainly some 11-12m high, would be significantly higher than surrounding buildings and the density of about 141 dwellings per hectare would be high compared to that of about 100 dph on nearby residential streets. There would be two pedestrian accesses between the blocks but these would be relatively narrow, particularly that onto Fydell Street.
20. There would be some slight variations in ridge heights. The two storey elements would be very limited in width, and would have a high ridge line, so would provide only limited relief to the mass of the block facing Lister Way. The expanse of the façades facing the streets would be articulated to some extent by the different angles as the blocks follow the shape of the site and by the forward projecting gables spaced along the frontages. However, the façade facing Gas Works Path would be particularly overbearing with relatively little articulation or interest to relieve the mass of the building. The same applies to the façade facing the land to the east, and whilst not determinative of my conclusions, the scale and proximity to the boundary of this block could undermine more comprehensive development of that land in the future.
21. In accordance with the Environment Agency requirements to minimise flood risk the buildings would be set at 4.3m ODN: an average of about 0.5m above the general existing ground level². However, the building that would wrap around the junction with Lister Way would be some 0.8m higher than the footway levels indicated on the topographical survey. This raising of floor levels would increase the apparent overall bulk of the development.
22. There is nothing wrong with the overall design concept in principle. However, in my judgement the overall length and height of the blocks, so close together and to the site perimeters, would result in an over dominant, overbearing,

² Flood Risk Assessment 2018

visually oppressive, form of development with little scope for landscaping to relieve the mass of the blocks. Although Fydell Street properties are on the back edge of the footpath, this would not set a precedent for such significantly taller buildings so close to the site boundaries. The benefits of re-generating the site would be outweighed in this respect. I conclude that the proposal would amount to over development that would fail to maximise the opportunity to achieve an overall improvement in the character and quality of the area.

23. I acknowledge that permission Ref B/19/0117 has established that some three storey development is acceptable on the site but that scheme is smaller in scale with the second floor accommodated in the roof space. Accordingly it does not set a precedent for the scale and extent of this appeal proposal.
24. For the reasons set out above I conclude the proposed development would have a harmful effect on the character and appearance of the area. Accordingly it would conflict with Policies 2 and 3 of the LP and similar principles of the Framework.

Living conditions

25. Due to the road layout and surrounding land uses there would be relatively few houses on Fydell Street directly opposite the building blocks of the proposed apartments. These houses are positioned at the back edge of the footpath and the nearest proposed block would be some 13m away. The Officer view, in the Planning Committee Report, recognises that, were the proposal to proceed, there would be some overlooking between existing and future residents and some effect on sunlight and daylight of the windows serving the neighbouring residents, especially during the winter months, but concluded that the impacts would not be sufficient to justify withholding permission.
26. The application documents I have seen provide little in the way of assessment of the likely impacts on the living conditions of occupiers of the existing houses. The appeal is accompanied by a shadow diagram which illustrates that the shadows cast by the building would not extend beyond the centre line of the road or reach the windows of the adjoining properties. However, the evidence is lacking in detail and there appears to be no site section showing the relative levels between the proposed blocks and the existing houses. This makes a thorough assessment of the likely impacts on outlook, whether or not over shadowing would occur, difficult for me. Had I been minded to allow the appeal I would have sought further evidence in relation to this matter.
27. For the reasons set out above I cannot confidently conclude that the proposal would not have an unacceptable effect on the living conditions of occupiers of properties on Fydell Street. Accordingly I cannot conclude that the proposal would comply with Policies 2 and 3 of the LP in respect of effect on residential amenity.

Other Matters

28. A draft agreement under S106 of the Town and Country Planning Act providing for affordable housing and contributions towards education requirements has been submitted. However, given my conclusions on the main issues, I do not need to consider this matter further.
29. I acknowledge that the proposal was supported by planning and highway Officers and that the Planning Committee resolved to refuse permission against

the recommendation of Officers. However, Councillors are entitled to exercise their own judgement and are not obliged to accept Officer recommendations. I have exercised my own judgement in assessing the planning merits on the basis of the evidence before me.

30. The Council indicates that a 5.6 year supply of housing land can be demonstrated. This is not disputed by the appellant and I see no reason to come to a different view in the context of this appeal.

Planning Balance and Conclusion

31. There is no objection in principle to residential development and the proposal would add to the local stock of housing and increase the choice of homes whether or not a suitable supply of housing land can be demonstrated. Eleven affordable units (or a commuted sum) would be provided and I give these benefits significant weight.
32. The proposed development would regenerate and make efficient use of land, help support the town by employment during construction and add spend in the local economy. The site is in an accessible location where future occupants need not rely on a private vehicle for day to day services and facilities. These are all matters that strongly support the proposal.
33. There are no objections in respect of the use of sustainable materials, the principle of residential development, compatibility with neighbouring land uses, or impact on ecological, heritage assets or mineral resources. Mitigation measures would minimise flood risk. However, these are matters which should be addressed in all developments and do not add particular weight in favour of the proposal.
34. Set against this there would be no on-site car parking provided. In the absence of satisfactory alternative measures the proposal fails to address the effect of this on the local road infrastructure and the pressures that would arise in the narrow, congested nearby streets where parking is already at a premium. It would have a harmful effect on the local highway infrastructure. Accordingly the proposal would not amount to sustainable development as defined in Policy 2 of the LP. I give these matters together very great weight in this appeal.
35. I have found that the proposal would adversely affect the character and appearance of the area. It would amount to over development of the site that would fail to maximise opportunities to achieve an overall improvement the character and quality of the area and would be contrary to Policy 3 of the LP. Nor can I be confident that the proposal would not adversely affect the living conditions of neighbouring residents. I give these matters considerable weight.
36. Taking into account all the above I conclude that the benefits of the proposed development would not outweigh the harm I have identified. In conflicting with Policies 2, 3 and 36 of the relatively recently adopted LP, the proposal cannot be said to comply with the development plan as a whole. I find insufficient material considerations to outweigh this conflict. The appeal should be dismissed.

S Harley

INSPECTOR