
Appeal Decision

Site visit made on 28 July 2020

by William Cooper BA (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 17th August 2020

Appeal Ref: APP/M2515/W/20/3252938

7 Bargate, Lincoln LN5 8BU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant planning permission.
 - The appeal is made by Mr Anthony Jenkins, Allerton Developments against the decision of City of Lincoln Council.
 - The application Ref: 2020/0168/FUL, dated 2 March 2020, was refused by notice dated 22 April 2020.
 - The development proposed is demolition of existing warehouse and erection of a two storey building to accommodate 4no. flats (Resubmission).
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing warehouse and erection of a two storey building to accommodate 4no. flats (Resubmission) at 7 Bargate, Lincoln LN5 8BU in accordance with the terms of the application, Ref: 2020/0168/FUL dated 2 March 2020, and the plans submitted with it, subject to the conditions on the attached Schedule A.

Preliminary Matters

2. The description in the banner heading above is taken from the appeal form and decision notice as it is more precise than that shown on the application form.
3. The planning history of the site is acknowledged, specifically the planning permission granted in 2014 which included conversion of the existing warehouse building into three apartments¹. The permission has lapsed.

Background and Main Issues

4. The appeal site adjoins the St. Catherines Conservation Area (CA). Neither of the main parties expresses a view that the proposal would harm the character or appearance of the CA. Nonetheless, I have had special regard to the statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA.
5. The effect of the proposal on living conditions of future occupiers of the proposed flats is not cited within the Council's reasons for refusal. Nevertheless, the Planning Officer's report expresses concern about this matter.
6. In the light of the above, the main issues are the effect of the proposed development on:

¹ Planning Application Ref: 2014/0629/F.

- the character and appearance of the area, including whether it would preserve or enhance the character or appearance of the CA, and
- the living conditions of neighbouring occupiers, with particular regard to outlook and privacy, and
- the living conditions of future occupiers of the proposed building, with particular regard to outlook.

Reasons

Character and appearance

7. The site is adjacent to the north-western corner of the CA. From what I saw during my site visit, the significance of the CA derives from its nineteenth century architecture. This comprises tight terraced streets near the appeal site, the spine of the High Street with its shops, and areas of grander properties set along South Park Road and St Catherines Road, some of which have views to the green space beyond. The CA is interspersed with churches and old pub buildings.
8. Bargate and Tealby Street have a tight urban grain. The group of properties between the eastern ends of the two streets and High Street has a variety of building styles and profiles. This is distinct from the regularity elsewhere within the terraced streets in the vicinity. With its angular facade and plain appearance, the building to be replaced is not especially picturesque or harmonious with its setting.
9. The Council is concerned that the proposal would result in a cramped appearance. However, the proposed reduction in building depth and footprint, compared to the existing, would free up space at the northern and southern ends of the site. This would go some way to counterbalance the increase in ridge height, viewed from rear gardens of the terraced row of houses on Bargate to the west, and from the Antler House carpark to the east. Furthermore, the proposed reduction in building width on the western side of the site would help counterbalance the increase in ridge height, viewed from the rear of the terraced row on the south side of Tealby Street.
10. As such, the proposed building's set back from the street on Bargate, and its relative visual containment by surrounding development of varied shape and size, would help it assimilate within the tight urban grain and streetscene. Furthermore, the proposed building's varied pitch-roof profiling would visually moderate the increase in ridge height, from various viewpoints around it. Consequently, the somewhat bespoke proposal would have a neutral effect on the setting of the CA, and assimilate acceptably into the area.
11. To conclude, the proposal would preserve the character and appearance of the neighbourhood and the adjacent CA. It would therefore not conflict with Policy LP26 of the Central Lincolnshire Local Plan (2017) (LP), which seeks to ensure that development is sympathetic to local character, and of appropriate design and appearance to conserve or enhance the historic environment. Furthermore, the proposal would accord with the approach of the National Planning Policy Framework (the Framework) in respect of the desirability of sustaining and enhancing the significance of heritage assets, with great weight given to the asset's conservation.

Living conditions of neighbouring occupiers

12. No side or rear windows are proposed at first floor level, and perimeter walling is proposed around the west, north and eastern boundaries of the development. In combination with the tall boundary wall to the rear of odd Nos 1 to 9 Tealby Street, and the proposed building's oblique set back from No 4 Bargate Lodge, the above elements would prevent significant overlooking of neighbouring properties.
13. Furthermore the assimilating factors, as outlined in relation to character and appearance, would help avoid an overbearing effect on the outlook of occupiers of Antler House, Elk House and dwellings on Bargate.
14. To conclude, the proposal would not harm living conditions of neighbouring occupiers, in terms of outlook and privacy. As such, it would not conflict with Policies LP26 and LP33 of the LP, which seek to ensure that, amongst other things, development safeguards living conditions of residents.

Living conditions of future occupiers

15. The majority of the fenestration in ground floor Flat 2 would be within its rear and side elevations. The set back of the proposed building from Bargate would provide some depth of view from the front elevation of the building towards the streetscene, which includes trees on the other side of the street. Even if informal car parking took place in front of the proposed building, the above factors would provide a counterbalance to avoid an overly oppressive vista from Flat 2.
16. Windows would not be provided within walls in first floor Flat 3, given the privacy needs of surrounding properties. Nevertheless, five roof windows would provide Flat 3 with natural light and sky views, including two in the kitchen/dining room and two in the bedroom. Furthermore, the building would be located a short walk from South Common and Queens Park public green space. The above together would provide future occupiers of the one-bedroom flat with opportunity for visual relief from built-up elements. Also, the glazed entrance foyer would contribute to a sense of outlook and light on the approach to the properties.
17. In conclusion, the proposal would not harm the living conditions of future occupiers, in terms of outlook. As such, it would broadly accord with Policies LP26 and LP33 of the LP, which seek to ensure that development safeguards residents' living conditions.

Conditions

18. The conditions suggested by the Council have been considered against the tests of the Framework and advice provided by Planning Practice Guidance. They have been broadly found to be reasonable and necessary in the circumstances of this case. I have made some minor drafting changes to suggested conditions in the interests of precision.
19. In addition to the standard commencement condition, a condition requiring that the development is carried out in accordance with the approved plans, is necessary to provide certainty. Conditions relating to ground contamination and remediation are required to ensure that risks are minimised, and any contamination is appropriately mitigated. Conditions regarding construction

management, working hours and boundary treatments are attached to safeguard the living conditions of residents. A condition covering surface water drainage is required in the interests of effective drainage. A condition relating to cycle parking is necessary in the interests of sustainable transport.

Conclusion

20. For the reasons above, I conclude that the appeal should be allowed.

William Cooper

INSPECTOR

Schedule A) 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 strict accordance with the following approved drawings: ARQ/1173/01 Revision B OS Location Map; ARQ/1173/02 Revision B Existing and Proposed Block Plans; ARQ/1173/03 Existing Key Elevations & Proposed Plans and Elevations.
- 3) No development shall commence until an investigation and risk assessment has been completed to assess the nature and extent of any contamination on the site and a written report of the findings submitted to and approved in writing by the local planning authority. The investigation and risk assessment must be undertaken by competent persons and include: (i) a survey of the extent, scale and nature of contamination; (ii) an assessment of the potential risks to • human health, • property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes, • adjoining land, • groundwaters and surface waters, • ecological systems, • archaeological sites and ancient monuments; (iii) an appraisal of remedial options, and proposal of the preferred option(s). This must be conducted in accordance with the Environment Agency's 'Land Contamination: Risk Management (LCRM) Guidance' (available on www.GOV.UK).
- 4) No development shall commence until there shall have been submitted to and approved in writing by the local planning authority a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment. The scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
- 5) The approved remediation scheme must be carried out prior to the commencement of development unless otherwise agreed in writing by the local planning authority. The local planning authority must be given two weeks written notification of commencement of the remediation scheme

- works. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, submitted to and approved in writing by the local planning authority.
- 6) In the event that contamination not previously identified is found during development, it shall be reported in writing immediately to the local planning authority. An investigation and risk assessment must be undertaken in accordance with the requirements of Condition 2 and, where remediation is necessary, a remediation scheme shall be prepared in accordance with the requirements of Condition 3 and submitted to and approved in writing by the local planning authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the local planning authority in accordance with Condition 4. Where no unexpected contamination is found, written confirmation of this must be provided to the local planning authority prior to any occupation of the site.
 - 7) No development shall commence until there shall have been submitted to and approved in writing by the local planning authority a construction environmental management plan. The construction environmental management plan shall include details of control measures that will be employed to control the impact of noise, vibration and dust from the construction phase on offsite receptors. The approved construction environmental management plan and the control measures it contains shall be implemented throughout the construction phase. (Note: in complying with this condition, regard shall be had to all relevant standards, including British Standard BS5228: 2009 - Code of practice for noise and vibration control on construction and open sites – Part 1: Noise and Part 2: Vibration; and the Institute of Air Quality Management's 'Guidance on the assessment of dust from demolition and construction (2014)').
 - 8) No development shall commence until there shall have been submitted to and approved in writing by the local planning authority a construction management plan and method statement, which shall outline working practices during development. The construction management plan and method statement shall include: phasing of the development to include access construction; parking of vehicles of site operatives and visitors; loading and unloading of plant and materials; storage of plant and materials used in constructing the development and wheel washing facilities. Development shall be carried out in accordance with the approved construction management plan and method statement.
 - 9) The construction of the development hereby permitted shall only be undertaken between the hours of 08:00 to 18:00 Monday to Friday (inclusive) and 08:00 to 13:00 on Saturdays and shall not be permitted at any other time, except in relation to internal plastering, decorating, floor covering, fitting of plumbing and electrics and the installation of kitchens and bathrooms. Any deliveries associated with the construction of the development hereby permitted shall only be received or dispatched at the site between the hours of 08:00 to 18:00 Monday to Friday (inclusive) and 08:00 to 13:00 on Saturdays and shall not be permitted at any other time.

- 10) No development shall commence until there shall have been submitted to and approved in writing by the local planning authority, in consultation with the lead local flood authority, a scheme for the provision, implementation and future maintenance of a surface water drainage system. Where surface water is to be directed into a mains sewer system, the relevant bodies shall be contacted to ensure the system has sufficient capacity to accept any additional surface water.
- 11) No development shall commence until there shall have been submitted to and approved in writing by the local planning authority details of secure cycle parking facilities for the occupants of, and visitors to, the development hereby permitted. The facilities approved shall be fully implemented prior to first occupation of the development and retained thereafter.
- 12) No development shall commence until there shall have been submitted to and approved in writing by the local planning authority details of all new boundary walls, including materials. maintained on site thereafter. The measures implemented as approved shall be retained and maintained thereafter.