



Appeal Decision

Site visit made on 3 August 2020

by C Coyne BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd September 2020

Appeal Ref: APP/E2001/W/20/3252037

121 Lairgate, Beverley HU17 8JG

- 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 Jonathan Willoughby against the decision of East Riding of Yorkshire Council.
 - The application Ref 19/03270/PLF, dated 16 September 2019, was refused by notice dated 4 February 2020.
 - The development proposed is the development of 2No. town houses to the rear of 121, Lairgate, Beverley.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the proposed development on the living conditions of neighbouring occupiers having particular regard to matters of outlook, privacy and light; and
 - whether the proposed development would provide satisfactory living conditions for its future occupiers having particular regard to the provision of private amenity space.

Reasons

3. The appeal site is a piece of vacant, unused and slightly overgrown land situated to the rear of nos. 121 and 121A Lairgate. To the north of the site, the shared boundary with the adjacent property no. 119 Lairgate, a two-storey terraced dwelling similar to no. 121, comprises a brick wall approximately 2 metres in height. There is currently a small, derelict outbuilding close to it. To the south, the shared boundary consists of a closed boarded timber fence with an approximate height of 1.8 metres. The neighbouring properties to the south comprise a row of several interlinked two storey terraced apartments, nos. 70, 72, 74 and 76 Keldgate. There is also a rear pedestrian accessway/shared amenity space for these properties located directly adjacent to the shared boundary with the appeal site. The back gardens of nos. 30 and 31 St Martin's Close, are also located to the north east and are relatively close to the appeal site.

4. The proposal would demolish the existing dilapidated outbuilding to create two new semi-detached two-storey dwellings towards the rear of the appeal site with associated private amenity space and would also provide three new parking spaces towards the front of the appeal site close to the existing vehicular access gate located between nos. 121 & 121A. The proposal would also provide a bin storage area and a new gate/door that would accommodate an existing right of access to the rear of no. 119.

Living Conditions – neighbouring occupiers

5. The proposed dwellings would be located towards the rear of the appeal site with their front elevations facing westwards towards the rear elevations of nos. 119, 121 and 121A Lairgate and no. 76 Keldgate. Consequently, the future occupiers of the proposed dwellings would be able to directly overlook the rear garden/amenity space and habitable rooms of those neighbouring properties via the four windows serving the proposed bedrooms on the first floor. As a result, I consider that the proposal would cause an unacceptable loss of privacy to the occupiers of these properties.
6. Furthermore, for comparable reasons I also consider that there would be a potential loss of privacy to the occupiers of nos. 70, 72 and 74 Keldgate even though the proposed first floor rear windows would not directly face the rear elevations of those properties. Moreover, given the proposals height, scale, massing and location close to the shared boundary with nos. 70, 72 and 74 Keldgate, I consider that it would create an increased sense of enclosure and also lead to an unacceptable loss of outlook from the ground floor habitable rooms (kitchens), of those properties. For similar reasons, I consider that it would also likely cause an unacceptable loss of daylight to these windows.
7. I have before me a set of shadow drawings which the appellant has submitted which show that the proposal would cause little additional loss of sunlight to nos. 70, 72, 74 and 76 Keldgate. These shadow drawings also show that the greatest loss of sunlight that the proposal would cause to the rear garden of no. 119 Lairgate would be early during Spring and Autumn mornings, and that even then it would only affect the part of the garden furthest from the dwelling. As a result, I am satisfied that the proposal would not cause an unacceptable loss of sunlight to the garden of no. 119 or to the ground floor rear windows of nos. 70, 72, 74 and 76 Keldgate. However, this does not outweigh my findings in relation to the negative impact that the proposal would have on no. 119 Lairgate and no. 76 Keldgate with regard to loss of privacy or on nos. 70, 72 and 74 Keldgate with regard to loss of outlook and daylight as highlighted above.
8. I therefore conclude, on this main issue, that the proposed development would unacceptably harm the living conditions of neighbouring occupiers having particular regard to matters of outlook, privacy and light. Accordingly, it would conflict with Policy ENV1 of the adopted East Riding Local Plan (April 2016) (ERLP) which supports development that has regard to the amenity of residential occupiers, amongst other considerations. It would also conflict with paragraph 127 (f) of the National Planning Policy Framework (the Framework) which aims to create places with a high standard of amenity for existing and future users.

Living Conditions – future occupiers

9. The proposal would provide two rear patio areas and two small grassed areas to the front that would serve as private amenity space for the future occupiers of both dwellings. However, these areas would be significantly smaller than many of the private amenity or garden space belonging to the residential properties surrounding the appeal site. Consequently, whilst they may well be comparable in size to the private amenity space serving the occupiers of the neighbouring smaller apartments at Keldgate, I consider that they would not be sufficiently large to adequately serve the needs of the future occupiers of a dwelling with two double bedrooms, a single bedroom, and a sizeable bathroom, kitchen, living room and dining room.
10. I therefore conclude, on this main issue, that the proposed development would not provide satisfactory living conditions for its future occupiers having particular regard to the provision of private amenity space. Accordingly, it would conflict with Policy ENV1 of the ERLP which supports development that has regard to the amenity of residential occupiers, amongst other considerations. It would also conflict with paragraph 127 (f) of the Framework which aims to create places with a high standard of amenity for existing and future users.

Other Matters

Conservation Area and setting of Grade II Listed Buildings

11. I am also aware that the appeal site is situated within the settings of several Grade II Listed Buildings and also within the Beverley Conservation Area (CA). Furthermore, given the proposal's location, I am satisfied that it would be sufficiently screened from public view by the buildings surrounding it and that its design would be sufficiently similar to the properties for it not to have an adverse visual impact. I also acknowledge that both parties appear to agree that the proposal would not materially harm the character or appearance of the CA or the settings of the listed buildings. As a result, I consider that the proposal would preserve the character and appearance of the CA and also the settings of the nearby listed buildings, something to which I attach considerable importance and weight.
12. In support of the appeal scheme the appellant has argued that the proposal would provide a potential benefit in that it would enable the restoration of the Grade II Listed Building no. 121 Lairgate thereby enhancing the character of the CA and that without the approval of the appeal scheme the viability of this enabling development would be at stake. However, the appellant has not submitted any clear and convincing evidence to support this such as a viability assessment, or to demonstrate how this enabling development would be delivered, such as a legal agreement or unilateral undertaking or indeed any other such assessments as set out in the Historic England Guidance¹. Furthermore, evidence submitted by the Council states that the restoration/refurbishment of no. 121 is now almost complete, which has not been challenged by the Appellant.

¹Enabling Development and Heritage Assets, Historic Environment Good Practice Advice in Planning Note 4 (2020)

13. Consequently, I cannot be sure that the appeal scheme would be enabling development or that it would directly lead to the enhancement of the CA and provide this potential benefit. I also, therefore, cannot be sure that the proposal's failure to gain planning permission would lead to the abandonment of the restoration/refurbishment of no. 121 due to it being financially unviable. Accordingly, I can see no potential benefit that would outweigh the disbenefits of departing from the policies within the development plan as highlighted above. In addition, the fact that the proposal would preserve the character of the CA and the setting of the listed buildings is also not of sufficient weight to outweigh the considerable harm I have already identified in relation to the main issues.

No objections from Interested Parties

14. I acknowledge that no objections have been received from neighbours or other interested parties and that the occupier of no. 119 has expressed support for the appeal scheme. However, this is not of sufficient weight to outweigh the harm to living conditions I have identified above.

Conclusion

15. For the reasons set out above, I conclude that the appeal should be dismissed.

C Coyne

INSPECTOR