
Appeal Decision

Site visit made on 7 June 2022

by C Coyne BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th July 2022

Appeal Ref: APP/A3010/W/22/3291543

Land at the bottom of Century Road (Vegetable garden to 17 Tunnel Road), Century Road, Retford DN22 7TD

- 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 Dr G D Lynch against the decision of Bassetlaw District Council.
 - The application Ref 21/00555/FUL, dated 12 April 2021, was refused by notice dated 7 September 2021.
 - The development proposed is described on the application form as 'Proposed erection a bungalow - Revised scheme from previously submitted application Ref No. 20 001653 FUL, Refused 16/02/2021'.
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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 its future occupiers having regard to outlook; and
 - the effect of the proposed development on the living conditions of its future occupiers having regard to noise.

Reasons

3. The appeal site is a small piece of land with an irregular shaped plot that was formerly used as a vegetable garden. It is bounded by the rear gardens of nearby residential properties, Century Road, and a depot for highway maintenance vehicles. Beyond this depot lies a railway line. The proposal would erect a detached two-bedroomed bungalow on the site and install close boarded acoustic fencing with an approximate height of 1.8 metres along the site's shared boundary with the depot.

Outlook

4. Given the irregular shape of the appeal site the boundary where the proposed acoustic fencing would be erected would be at an oblique angle to the proposed dwelling. In addition, given the small size of the plot, there would not be a great distance between it and the proposed kitchen window. Furthermore, given the height of this proposed kitchen window and that of the proposed acoustic fencing I consider that the view from this window would not comprise

- much more than the fencing. Consequently, I consider that the proposal would not provide an adequate level of outlook for its future occupiers in this regard.
5. Similarly, even though there would be a greater distance between the proposed lounge window and the proposed acoustic fencing, this distance would not be significant and the view from this window would also include the bare wall of the building in the depot that abuts the appeal site which has a greater height than the fencing. Therefore, while this view of the proposed fencing would be more oblique than that of the kitchen window, given the position of the proposed lounge window both the fencing and the blank elevation of the adjacent building would likely draw the eye of someone looking out the lounge window.
 6. Moreover, given the height, length, and massing of both the proposed fencing and the blank wall of the nearby building, and the position of the lounge window it is also likely that they would dominate the view from this window meaning that it would appear overbearing and therefore would also not provide an adequate level of outlook for its future occupiers. The outlook from this window would also not be improved by the location of the car parking area immediately in front of it as while vehicles would not be parked there all the time, there would likely be occasions when they were which would further reduce the outlook from the lounge window.
 7. I acknowledge that the proposed fencing would be painted, and that soft landscaping would be installed. However, for the above reasons, I consider that this would be insufficient to adequately mitigate the significant adverse impact of the proposal.
 8. I therefore conclude that the proposed development would materially harm the living conditions of its future occupiers having regard to outlook. Accordingly, it would fail to meet the relevant requirements of policy DM4 of the adopted Bassetlaw District Core Strategy and Development Management Policies DPD (BDPD) in this regard.

Noise

9. At the time of my visit, in the early afternoon, I did not hear any noise from the adjacent depot. However, I did at that time hear three trains pass by within a period of approximately 20 minutes with this noise lasting relatively short period each time. Otherwise, the appeal site and the nearby area was quiet when I visited.
10. The submitted noise assessment report dated 8 April 2021 (noise report) concluded that regarding daytime noise levels, including those of passing trains, while they would meet the maximum recommended level that any adverse impact could be mitigated by the erection of close boarded acoustic fencing on the shared boundary with the depot. It also concluded that internal daytime noise with standard double glazing and trickle vents would meet the BS8233:2014 standard and that this would also be the case with a partially open window.
11. In relation to night-time noise, the noise report states that the higher noise levels recorded were mainly caused by passing trains. It also concludes however, that the internal noise level would be sufficiently attenuated even

with partially open windows, to meet the relevant BS8233 standard, nonetheless.

12. Overall, the noise report concludes that the design of the proposed dwelling, including its walls and roof as well as the windows being double glazed and fitted with trickle vents, and the erection of an acoustic wall or fence to a height of around 1.8 metres on the boundary with the depot would be sufficient to adequately mitigate any adverse noise impact on its future occupiers.
13. In addition to this, the Council's Environmental Health Officer has raised no concern in relation to the proposal if it was implemented in accordance with the mitigation measures in the submitted noise report.
14. I note the Council's concerns that the frequency of passing trains during the day and night would cause noise and disturbance. However, they have not submitted any substantive evidence, such as a noise complaint or survey, to support this. Furthermore, even though while on my visit I observed that the rate of trains passing the rear of the depot was quite frequent, this does not necessarily mean that the proposed acoustic fencing would not adequately mitigate this noise, and any intermittent noise from the depot, even when future occupiers would be using their external amenity area as highlighted by the noise report.
15. Moreover, on my visit, I observed that several residential properties near the appeal site had their windows partially open as it was a relatively warm day. It was also apparent that nearby residents use their outdoor amenity areas and gardens. As a result, while I acknowledge that what I saw on my visit represents but a snapshot in time, I consider it likely that the noise of the passing trains and the intermittent noise from the nearby depot is something to which locals have to a degree become accustomed.
16. Consequently, and based on the evidence before me, I conclude that the proposed development would not materially harm the living conditions of its future occupiers having regard to noise. It would therefore not conflict with the relevant requirement of policy DM4 of the BDPD.

Conclusion

17. Notwithstanding its partial compliance with Policy DM4 of the BDPD, the proposed development would be contrary to the adopted development plan when read as a whole and there are no material considerations indicating a decision otherwise than in accordance with it. For the reasons set out above I conclude that the appeal should be dismissed.

C Coyne

INSPECTOR