



Appeal Decision

Site visit made on 24 April 2023

by Paul Martinson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 May 2023

Appeal Ref: APP/M2515/W/22/3312703

38 Hykeham Road, Lincoln LN6 8AB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Carl Watt against the decision of City of Lincoln Council.
 - The application Ref 2022/0759/OUT, dated 23 September 2022, was refused by notice dated 24 November 2022.
 - The development proposed is described as: '3 bed bungalow with loft rooms'.
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Decision

1. The appeal is allowed and planning permission is granted for a 3 bed bungalow with loft rooms at 38 Hykeham Road, Lincoln LN6 8AB in accordance with the terms of the application, Ref 2022/0759/OUT, dated 23 September 2022, subject to the conditions as set out in the attached schedule.

Preliminary Matters

2. The planning application was submitted in outline form with all matters reserved for future consideration. I have dealt with the appeal on this basis and I have treated the submitted plans as being illustrative only.
3. Since the Council issued its decision, the new Central Lincolnshire Local Plan (2023) (the LP) has been adopted. I have based my decision on the most up to date policies.

Main Issue

4. The main issue is the effect of the proposed development on the living conditions of the occupiers of the adjoining dwelling, 40 Hykeham Road, with particular regard to noise and disturbance.

Reasons

5. Hykeham Road is a reasonably busy road in a residential area. The appeal site relates to a semi-detached dwelling and its garden. The dwelling is set back from the pavement edge behind a front garden and driveway which extends along the side boundary. The rear garden is long and narrow, as is typical in the area.
6. Standing in the rear garden, I observed that noise from traffic along Hykeham Road was clearly audible. Nonetheless, I witnessed that the noise decreased towards the back of the plot. However, the rearmost part of the garden bounds a car park associated with the blocks of flats on Newark Road. The intermittent movement of vehicles within this car park is likely to contribute to existing noise levels in the rear garden of No 38 and its adjoining neighbour, No 40.

7. The existing boundary between No 38 and No 40 consists of a horizontal panel fence that is in a poor condition. Some of the panels have collapsed and are lying on the ground, whilst in other places along its length, they appear to have been removed entirely.
8. An application for outline planning permission allows for a decision on the general principles of how a site can be developed. The key consideration is whether an acceptable development as described in the proposal could be devised. The indicative site layout plan shows a proposed vehicle turning area extending right up to the boundary with the garden at No 40, albeit some distance from the neighbouring dwelling itself. However, such a turning area need not take this exact form. In my view, there is sufficient space to provide at least a slight gap between the boundary and the edge of the proposed turning area.
9. I accept that any noise filtering provided by the existing fence is likely to be limited. That said, the appeal proposal has been submitted in outline form with all matters reserved and therefore the application has not been supported by details of any proposed boundary treatments. Nevertheless, it would be a reasonable expectation of the occupier of the neighbouring property that as part of any new housing development, a fence would be constructed adjacent to the boundary with their garden. This would be in the interests of privacy and could provide some noise mitigation. I am satisfied that a suitable fence could be provided in support of any future reserved matters application and secured by condition.
10. Whilst vehicle movements associated with the turning area would be audible in parts of the rear garden of No 40, being associated with a single dwelling, they would inevitably be limited. Moreover, any noise would be in the context of existing noise levels arising from existing vehicle movements, including the car park to the rear of the flats and traffic along Hykeham Road. As such, with suitable boundary treatment in line with the above, I am satisfied that the noise from such vehicle movements would not result in significant noise levels above what is likely to be expected in this location. This is reinforced by the presence of existing development to the rear of frontage properties nearby.
11. The Council is concerned with regard to the effect on the neighbour from vehicle movements late at night or early in the morning. However, in my view, the indicative plan demonstrates that suitable separation between the neighbouring dwelling and that proposed could be achieved in order to avoid any disturbance to occupiers of No 40 at such times.
12. Having regard to the above, I am therefore satisfied that a suitable living environment for the occupiers of neighbouring properties could be secured through the reserved matters relating to layout, scale, appearance and landscaping. As such, I conclude that the proposed dwelling would not cause material harm to the living conditions of the occupiers of No 40 with particular regard to noise and disturbance. The proposal would therefore comply with Policy S53 of the LP which seeks, amongst other things, to provide high quality design that preserves living conditions including through ensuring proposals would not result in adverse noise, taking into account surrounding uses.

Conditions

13. I have had regard to the conditions suggested by the Council and considered them against the tests in the National Planning Policy Framework (the Framework) and the advice in the Planning Practice Guidance (the PPG), making such amendments as necessary to comply with those documents. In addition to the standard conditions for outline consent, and in the interests of the living conditions of the occupiers of the adjoining property I have imposed a condition requiring details of the boundary treatments to form part of the reserved matters. Similarly, as part of ensuring a satisfactory scale of development with regard to neighbouring properties, site levels should be specified. For the same reason I have limited the scale of the dwelling to a maximum of one and a half storeys.
14. The condition suggested by the Council relating to the width of the site access is unnecessary as this would be covered at the reserved matters stage under "access" and "landscaping". Similarly, the details and position of any dormer windows would be controlled through the matter of "appearance".
15. Given the proximity of residential properties it is important to limit the hours of construction. A condition requiring details to be supplied to address any contamination found would represent a proportionate approach to the potential implications of any risks in that respect, having had regard to public safety and the provisions of the PPG.
16. Making provision for vehicle charging points is required to promote sustainable transport as referred to at paragraph 112. e) of the Framework.

Conclusion

17. For the reasons given I conclude that the appeal should succeed.

Paul Martinson

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) Details of the access, appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The landscaping details submitted pursuant to Condition 1 shall include details of the existing and proposed boundary treatments.

- 5) The details of scale submitted pursuant to Condition 1 shall include details of the existing site levels and the proposed slab levels of the buildings. The development shall be carried out as approved.
- 6) The development hereby approved shall be no more than one and a half storeys in height.
- 7) Prior to the first occupation of the dwelling, a minimum of one electric vehicle charging point shall have been installed at the dwelling hereby approved, full details of which shall have first been submitted to and approved in writing by the local planning authority. The approved details shall be maintained as such thereafter.
- 8) Construction works shall take place only between 0730 and 1800 on Monday to Saturdays and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 9) In the event that contamination is found at any time when carrying out the approved development, it must be reported in writing immediately to the local planning authority. An investigation and risk assessment must be undertaken and, where remediation is necessary, a remediation scheme must be prepared, which is to be 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.