



Appeal Decision

Site visit made on 25 April 2024

by H Wilkinson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 May 2024

Appeal Ref: APP/G2435/W/23/3330034

125-127 High Street, Ibstock, Leicestershire LE67 6JQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mrs Christine Clark against North West Leicestershire District Council.
 - The application Ref is PP-11933518.
 - The development proposed is the demolition of existing double garage and erection of one new dwelling including a new vehicular access and parking areas to the rear with fencing and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing double garage and erection of one new dwelling including a new vehicular access and parking areas to the rear with fencing and landscaping at 125-127 High Street, Ibstock, Leicestershire LE67 6JQ in accordance with the terms of the application, Ref PP-11933518, subject to the following 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 accordance with the following approved plans:

Location Plan, Drawing No 112 – Ground Floor Plan, Drawing No 121 – North East Elevation, Drawing No 122 – North West Elevation, Drawing No 123 – South West Elevation, Drawing No 124 – South East Elevation, Drawing No 102 – Proposed Site Plan and Drawing No 130 – Proposed Elevation on South Street.
 - 3) No development (including demolition) shall take place until a Construction Management Plan (CMP) has been submitted to and approved in writing by the local planning authority. The approved CMP shall thereafter be adhered to throughout the construction period for the development.
 - 4) The dwelling shall not be occupied until the access arrangements together with the parking and turning space has been laid out in accordance with drawing no. 102. Thereafter the access shall be maintained as approved and the space shall be kept available at all times for the parking and turning of vehicles.

- 5) The dwelling shall not be occupied until the boundary treatments as detailed on drawing Nos 102 and 103 have been provided. Thereafter, the boundary treatments shall be retained permanently.

Preliminary Matter

2. The appeal is against a failure of the Council to give notice of its decision on the planning application Ref PP-11933518 within the prescribed period. The Council's appeal statement sets out that, had they determined the planning application within the time limit, planning permission would have been given, as the proposal would have been considered compliant with the North West Leicestershire Local Plan 2021 (Local Plan). The planning appeal is therefore not contested.

Main Issue

3. Notwithstanding the Council's submissions, having regard to the interested party representations before me, the main issue in this appeal is the effect of the proposal on the highway network with particular regard to pedestrian and vehicular movement along South Road.

Reasons

4. Vehicular access to the appeal site is via a narrow, single width unclassified no through road which also serves a limited number of other properties. A public right of way runs along South Road, past the appeal site. Double yellow lines on High Street prohibit parking in the immediate area of the junction of High Street and South Road. However, on-street parking is available further along High Street.
5. The limitations of the access road including the narrow underpass and site area would restrict the size and number of vehicles able to access the site during the period of construction. However, a Construction Management Plan, secured by condition would ensure that suitable working practices and controls are implemented during the construction period to manage building works within the site and thus ensure that access to, and along South Road would not be obstructed. Any formal road closure required would be subject to a separate consenting regime, beyond planning control.
6. Subject to the above, I find that the proposal would not adversely affect the highway network with particular regard to pedestrian and vehicular movement along South Road. It would therefore accord with Local Plan Policies IF4 and IF7 where they seek to manage the effect of development on the highway network and safeguard highway safety. It would also be consistent with the highway safety objectives set out in the National Planning Policy Framework (the Framework).

Other Matters

7. The appeal site lies within the Ibstock Conservation Area (CA). The significance of the CA is derived in part from the pattern of development, which is formed of relatively close-knit development, set in the main to the rear edge of the highway. The unifying building characteristics displayed are also a notable feature of the CA. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA.

The proposal would be of a modest scale and its form and general appearance, including the use of sympathetic external materials would relate well to the site's surroundings and the existing pattern of development. Accordingly, the proposal would have a neutral effect on the character and appearance of the CA.

Conditions

8. I have considered the conditions suggested by the Council against the advice provided in the Framework and the Planning Practice Guidance (PPG). I have made such amendments as necessary to comply with those documents and for clarity and consistency.
9. In addition to the standard time limit, I have imposed a condition requiring the development to be implemented in accordance with the approved plans in the interests of certainty. A Construction Management Plan is necessary to ensure that the operational works to complete the scheme do not adversely impact on the highway network and its users. For the same reason, a condition requiring the access and on-site parking arrangements to be provided prior to the first occupation of the dwelling is necessary. For reasons of conciseness, I have combined these requirements into a single condition. In the interests of character and appearance and adequate living conditions, I have imposed a condition requiring the installation of the boundary treatments within the same timeframe.
10. The external materials to be used in the construction of the development are clearly stated on the submitted plans. Therefore, it is not necessary to impose a separate condition in this regard. For the same reason, it is not necessary to impose a separate condition in relation to the finished ground and floor levels.
11. The PPG indicates that planning conditions should not be used to restrict national permitted development rights (PD) unless there is a clear justification to do so. Based on the evidence before me, and my own observations on site, I see no justification to restrict PD rights in this case.

Conclusion

12. For the reasons given above the appeal is allowed.

H Wilkinson

INSPECTOR