



Appeal Decision

Site visit made on 15 March 2019

by R Sabu BA(Hons) MA BArch PgDip ARB RIBA

an Inspector appointed by the Secretary of State

Decision date: 18 April 2019

Appeal Ref: APP/Z2505/W/18/3215392

Land rear of 7 Willington Road, Willington Road, Kirton, Boston PE20 1EH

- 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 Sellers of Ray Sellars Quality Homes against the decision of Boston Borough Council.
 - The application Ref B/18/0293, dated 22 May 2018, was refused by notice dated 5 September 2018.
 - The development proposed is demolition of builders storage shed and construction of a 1 bedroom starter home dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of builders storage shed and construction of a 1 bedroom starter home dwelling, at Land rear of 7 Willington Road, Willington Road, Kirton, Boston PE20 1EH in accordance with the terms of the application, Ref B/18/0293, dated 22 May 2018, subject to the attached Schedule of Conditions.

Procedural Matter

2. I note that the South East Lincolnshire Local Plan 2011-2036 Adopted March 2019 (LP) has been adopted since the Council's decision notice was issued. I have therefore made my determination having regard to the LP rather than the former development plan policies cited in the Council's reasons for refusal of planning permission.
3. Following the adoption of the LP, the Council submitted a number of policies in relation to this appeal. Given that there were several reasons for refusal in the Decision Notice, I have considered each of the main issues with reference to only those policies that are directly relevant in each case.

Main Issues

4. The main issues are:
 - whether the proposed development preserves or enhances the character and appearance of Kirton Conservation Area (KCA);
 - whether the proposed development would provide a suitable living environment for future occupiers with particular regard to outlook; and
 - the effect of the proposed development on the living conditions of the occupiers of 7 Willington Road (No 7) with particular regard to noise disturbance and privacy.

Reasons

Character and appearance

5. The appeal site lies within KCA, the significance of which lies in the evidence of historic vernacular architecture. The appeal site lies behind 7 Willington Road (No 7) and while there is limited visibility from Willington Road, the site is partly visible from Penny Gardens and the nearby church yard. Given that the existing building on the site appears to be run-down, the appeal site provides moderate contribution to KCA.
6. The proposed building would be partly one, and partly two storeys high with flat roofs. The proposed materials would be in keeping with the character and appearance of the area, and while the flat roof would be uncommon in the area, the parts of the upper storey that would be visible from Penny Gardens and the church yard would be set back and clad in timber cladding such that the effect would be sympathetic to the character of KCA.
7. The footprint of the proposed building would be smaller than the existing building and would provide an adequate outdoor amenity space given the modest size of the property. In addition, since the garden sizes of No 7 and No 9 Willington Road (No 9) are modest, and that the parapet height would be lower than the eaves height of the Old Chapel, the proposal would not appear overly large for the size of the plot compared to the adjacent properties and would therefore appear to be in harmony with the pattern of development in the area.
8. Therefore, the proposed development would preserve the character and appearance of KCA and would accord with LP Policies 2 and 3 which together seek that considerations are met in relation to character and appearance among other things. It would also accord with Policy 29 which relates to heritage assets including Conservation Areas.

Outlook

9. The proposal includes south facing windows from the lounge, kitchen and bedroom that would be roughly floor to ceiling height. Given that these would provide outlook across garden space that, from the evidence before me, would be roughly 4m deep, the proposed development would provide adequate outlook for future occupants and would not create a claustrophobic environment.
10. Consequently, the proposed development would provide a suitable living environment for future occupiers with particular regard to outlook, and would accord with LP Policy 3 which relates to residential amenity among other things.

Living conditions

11. The main entrance and garden of No 7 is at the rear of the property and faces the appeal site. It is accessed via a private drive which also appears to be used by the occupiers of No 1 Willington Road (No 1) when accessing their garage and rear garden. Consequently, given the low-level wall at the boundary of No 7, the occupiers are likely to be experiencing an existing degree of noise and disturbance. The proposed dwelling would have one bedroom and there is no proposed car parking provision. Consequently, given

that the proposal is for one dwelling only, the increase of pedestrians passing No 7 would be limited such that it would be unlikely to cause undue noise and disturbance in this regard.

12. Although there are no parking spaces indicated on the drawings, I note that the site has space to provide one parking space in the future. Even if this space were to be used for parking, given that vehicles currently use the driveway, and that the proposed development would only have 1 parking space, any increase in vehicular and pedestrian traffic would be unlikely to cause undue noise and disturbance.
13. Turning my attention to privacy, given the low-level boundary wall, the window on the flank elevation of the building, and the adjacent access drive, the occupiers of No 7 are likely to be accommodated to a degree overlooking from people using the access drive. Given that the proposed development is likely to have only one or two future occupants, the increase in the number of people accessing the drive and passing in front of the garden of No 7, would be minimal such that there would not be substantial harm to privacy caused by the proposed development. Furthermore, the depth of the garden of No 7 is such that overlooking from the appeal site would be limited.
14. Consequently, the proposed development would not harm the living conditions of the occupiers of 7 Wellington Road (No 7) with particular regard to noise disturbance and privacy and would not conflict with LP Policy 2 which relates to the impact upon neighbouring land uses by reason of noise, odour, disturbance or visual intrusion, among other things.
15. LP Policy 4 relates to flood risk and LP Policy 5 relates to infrastructure and are not directly relevant to the main issues. In addition, LP Policies 30, 31, 32 and 36 relate to Pollution, Climate change, Community, health and well-being and Vehicle and Cycle parking respectively and are not directly relevant to the main issues.

Other Matters

16. I note the concerns regarding drainage and archaeology, however I am satisfied that these issues may be dealt with by relevant conditions.
17. I acknowledge local concerns regarding highways safety related to any increased vehicular use of the access. The Highways Authority have not objected to the proposal and from the evidence before me, I see no reason to disagree.
18. I acknowledge the neighbour's concerns regarding the effect of the proposed development on light to the Old Chapel. From the evidence before me, the building appears to be of a business use and whilst there may be an effect on the light to the windows that face the appeal site, there is no evidence before me to justify withholding planning permission on these grounds.
19. I acknowledge concerns regarding ownership of the access. However, I have restricted my assessment to the planning matters before me and this has not altered my decision.

Conditions

20. I have considered the conditions suggested by the Council. I have made some minor changes to these having regard to the tests set out in paragraph 55 of the National Planning Policy Framework and the guidance contained in the Planning Practice Guidance.
21. In addition to the standard time limit condition, I have included a condition requiring that the development is carried out in accordance with the approved plans. This is in the interest of certainty and to safeguard the character and appearance of the area. I have also attached a condition relating to the external materials to safeguard the character and appearance of the area.
22. A condition relating to contamination is necessary given that the existing building was a former builders storage yard/workshop and there is a low risk of contamination on the site.
23. Given the proximity of the site to the church yard, a condition relating to archaeology is necessary. Given that it could affect works that are likely to be carried out early in the construction phase, the condition needs to be pre-commencement.
24. Since the proposal includes drainage to a soakaway on the site, a condition relating to surface drainage is necessary to safeguard the living conditions of neighbouring occupiers and future occupants of the proposed development.
25. In accordance with Section 100ZA(5) of the Town and Country Planning Act 1990, in response to a request by e-mail, the appellant has confirmed that they approve of the pre-commencement conditions.

Conclusion

26. For the reasons given above, subject to conditions, the appeal is allowed.

R Sabu

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin no 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 and documents: drawing numbers - 01, 03B, 04A, 05A, 06 and Flood Risk Assessment undertaken by RM Associates May 2018 Version 2.
- 3) No development above ground shall take place until samples of all external facing materials have been submitted to and approved by the Local Planning Authority in writing. The relevant works shall be carried out in accordance with the approved sample details.
- 4) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be

reported immediately to the Local Planning Authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the Local Planning Authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the Local Planning Authority. These approved schemes shall be carried out before the development is resumed or continued.

- 5) No demolition/development shall take place until a Written Scheme of Investigation has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include an assessment of significance and research questions – and:
- the programme and methodology of site investigation and recording;
 - the programme for post investigation assessment;
 - the provision to be made for analysis of the site investigation and recording;
 - the provision to be made for publication and dissemination of the analysis and records of the site investigation;
 - the provision to be made for archive deposition of the analysis and records of the site investigation;
 - the nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation

No demolition/development shall take place other than in accordance with the approved Written Scheme of Investigation.

- 6) No development shall take place until details of a surface water strategy has been submitted to and approved in writing by the Local Planning Authority. The works shall be implemented prior to the occupation of the development hereby permitted and shall be retained as such thereafter.