



Appeal Decision

Site visit made on 23 August 2021

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 September 2021

Appeal Ref: APP/N2535/W/21/3268181

Rosemary Villa, 30 Wragby Road, Sudbrooke, Lincoln LN2 2QU

- 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 Sath Vaddaram of Sath Vaddaram Ltd against the decision of West Lindsey District Council.
 - The application Ref 141550, dated 21 August 2020, was refused by notice dated 15 October 2020.
 - The development proposed is removal of existing dwelling and erection of 1no. dwelling house with associated access alterations, vehicle parking and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for removal of existing dwelling and erection of 1no. dwelling house with associated access alterations, vehicle parking and landscaping at Rosemary Villa, 30 Wragby Road, Sudbrooke, Lincoln LN2 2QU in accordance with the terms of the application, Ref 141550, dated 21 August 2020, subject to the conditions set out in the Schedule at the end of this decision.

Application for Costs

2. An application for costs was made by Mr Sath Vaddaram of Sath Vaddaram Ltd against West Lindsey District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. A revised version of the National Planning Policy Framework (the Framework) was published on 20 July 2021. Both main parties have had the opportunity to comment on any relevant implications for this appeal.
4. The description of the development provided on the planning application form has been replaced by an amended version on the decision notice and in subsequent appeal documents. I consider that subsequent description to accurately represent the proposal and I have therefore used it within this decision.

Main Issue

5. The main issue is the effect on the living conditions of nearby residents with regards to noise and disturbance.

Reasons

6. The appeal site is one of a small number of dwellings adjacent to this side of the A158. Due to the level of traffic on this road, noise levels to the front of the appeal site and nearby properties was intrusive at the time of my visit. However, whilst traffic noise was apparent in the rear garden of the appeal site, this area was relatively secluded and provided a private amenity space of significant benefit to residents of the property. This reflected the circumstances of the rear gardens of neighbouring dwellings.
7. The proposal includes a double garage and double car port with associated manoeuvring space within the rear garden of the site, which would be accessed via a drive and covered access adjacent to 28 Wragby Road. This would introduce vehicle movements into the rear garden of the appeal site which does not reflect the layout of nearby dwellings.
8. Due to the arrangement of the appeal site, noise from vehicle movements and associated activity in the rear garden would be apparent from the rear of neighbouring properties, particularly No 28. As well as noise, glare from car lights would also be apparent during the hours of darkness. Whilst boundary treatment may shield the direct beam from headlights, the indirect glare would still be visible.
9. The appellant has submitted a Noise Impact Assessment which concludes that car movements and associated voices would have no significant noise impact, although this related to the use of the property as a house in multiple occupation (HMO). However, due to the importance of the rear gardens as a secluded amenity area for neighbouring residents, a more subjective assessment is appropriate. This reflects the Planning Practice Guidance¹ which advises that the subjective nature of noise means that there is not a simple relationship between noise levels and the impact on those affected. This includes external amenity spaces, where the acoustic environment of those spaces should be considered so that they can be enjoyed as intended.
10. That said, the number and nature of traffic movements and other activities associated with a single dwelling would be unlikely to be of a degree that would lead to unacceptable harm to nearby residents. Even within a large household, residents are likely to share vehicles which would reduce the number of movements. Traffic arising from a single dwelling would also be unlikely to lead to significant issues in respect of fumes and pollution. Therefore, whilst vehicle movements and associated activity to the rear of the site would be apparent from neighbouring dwellings, I do not consider that this would be of a degree that would warrant the refusal of planning permission for this proposal.
11. Traffic movements to the front of the property would also be apparent from No 28. However, this reflects the current arrangement of the site and the traffic movements generated by a single household would not exacerbate this to an unacceptable degree.
12. I conclude that the proposal would not lead to unacceptable harm to the living conditions of nearby residents in respect of noise and disturbance. The proposal would therefore not conflict with the amenity considerations of policy

¹ Paragraph: 006 Reference ID: 30-006-20190722

LP26 of the Central Lincolnshire Local Plan or policy 9 of the Sudbrooke Neighbourhood Plan.

Other Matters

13. In respect of character and appearance, although the proposed dwelling is relatively large compared to the existing dwelling, it reflects the scale and arrangement of nearby dwellings. Even allowing for the proposed use of materials, given the variation in the designs of nearby dwellings and the extent of the site, I do not consider that the proposed dwelling would be an incongruous addition to the streetscape. I note the concerns raised locally in respect of the accuracy of the street elevations, but this does not lead me to a different conclusion based on my own observations.
14. The proposal also includes a large garage and car port to the rear. However, this would appear as a subordinate feature in relation to the dwelling and would not be unduly obtrusive in views along the rear of the dwellings. The garage and car port would also be set back from the boundary with No 28, which would mitigate effects in respect of light and an overbearing impact.
15. A side wall of the dwelling would be located in close proximity to 2 high level windows to the side of No 28, which the evidence suggests serve a dining room. However, the elevated position and limited size of these windows will already restrict the amount of light reaching that room, and any further reduction would be of a marginal degree which would not cause material harm to the living conditions of residents of No 28. A further high level window on a ground floor extension to No 28 would also be affected, but that room is served by patio windows on another elevation and would continue to receive adequate levels of natural light. There is a first floor bay window to the rear of No 28, and whilst the resident of that property considers that the proposal would breach the '45 degree' rule, due to the large size and orientation of this window I consider it would continue to provide an adequate degree of natural light and outlook.
16. Reference has been made to the use of the property as a HMO. However, the proposal is for the construction of a single dwelling house and I have considered this appeal on that basis. That said, I will return to this matter in my consideration of planning conditions.

Conditions

17. The Council has suggested a number of planning conditions which I have considered against the advice in the Planning Practice Guidance. As a result, I have amended some of the conditions for clarity.
18. In addition to the standard 3 year time limitation for commencement, I have imposed a condition requiring the development to be carried out in accordance with the submitted plans in the interests of certainty. A condition in respect of materials is appropriate in the interests of character and appearance. A condition in respect of foul and surface water drainage is required to ensure that the site is properly drained.
19. A condition in respect of an acoustic fence is required in the interests of the living conditions of neighbouring residents in respect of noise and disturbance. The appellant has challenged the necessity for this condition on the basis of comments of consultees and the lack of similar fencing on nearby properties.

However, the proposal would introduce traffic movements into the rear garden of the property. Given the proximity of the driveway and manoeuvring area to nearby dwellings and the potential for sleep disturbance from vehicle movements, as well as the importance of rear gardens as secluded amenity areas, I consider that the condition is reasonable and necessary.

20. The Council has requested that the property's permitted development rights are restricted so that it cannot be used for the purposes of Use Class C4², which relates to use of a dwellinghouse by not more than six residents as a HMO. However, this restriction does not apply to the existing property or to neighbouring dwellings. I am mindful that the use of the property as a HMO may lead to traffic movements and activity of a different nature to a dwellinghouse. That said, given the lack of restriction for the existing and neighbouring dwellings, I do not consider that such a condition in respect of this proposal would be necessary or reasonable. Proposals for HMO's which do not fall within Class C4 would be considered on their own merits.

Conclusion

21. There are no material considerations that indicate the application should be determined other than in accordance with the development plan. For the reasons given above, I therefore conclude that the appeal should be allowed.

David Cross

INSPECTOR

Schedule of 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: WRA030-EL1 Rev 01; WRA030-PE1 Rev 01; WRA030-PE2 Rev 01; WRA030-PF1 Rev 01; WRA030-PF2 Rev 01; WRA030-PS1 Rev 01; and WRA030-PG1 Rev 01.
- 3) No development above foundation level shall take place until details of the means of foul and surface water drainage (including percolation tests) have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented in full before occupation of the development.
- 4) The vehicular access (including vehicular access through the building), driveway, parking and turning space shown on drawing WRA030-PS1 Rev 01 shall be provided in full before occupation of the dwelling and shall be retained for such use in perpetuity.
- 5) The acoustic fence to the western boundary, the location of which is shown on drawing number WRA030-PS1 Rev 01, shall be installed prior to occupation of the development and shall be retained whilst the dwelling is in use.
- 6) Prior to their use in the development, details of the external finishing materials shall be submitted to and approved in writing by the Local

² Of the Town and Country Planning Use Classes Order 1987 (as amended)

Planning Authority. Development shall proceed in accordance with the approved details.

End of Schedule