



Appeal Decision

Site visit made on 25 April 2023

by **M Russell BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 4 May 2023

Appeal Ref: APP/N2535/W/22/3313280

Egmont, 23 Wragby Road, Sudbrooke, Lincoln, Lincolnshire LN2 2QU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Sath Vaddaram against the decision of West Lindsey District Council.
 - The application Ref 145619, dated 30 September 2022, was refused by notice dated 1 December 2022.
 - The application sought planning permission for demolition of existing house and construction of a new self-build replacement two and a half storey dwelling and detached garage with accommodation at first floor level without complying with a condition attached to planning permission Ref 139843, dated 24 October 2019.
 - The condition in dispute is No 3 which states that: 'With the exception of the detailed matters referred to by the conditions of this consent, the development hereby approved shall be carried out in accordance with the following drawings: L-ADD-025-04 REV D dated 01/10/2019, L-ADD-025-05 REV C dated 01/10/2019, L-ADD-025-06 REV C dated 01/10/2019, L-ADD-025-07 REV C dated 01/10/2019, L-ADD-025-08 REV C dated 01/10/2019, L-ADD-025-09 Rev C dated 01/10/2019 and L-ADD-025-10 A dated 26/09/2019. The works shall be carried out in accordance with the details shown on the approved plans and in any other approved documents forming part of the application.'
 - The reason given for the condition is: 'To ensure the development proceeds in accordance with the approved plans in the interests of proper planning'.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing house and construction of a new self-build replacement two and a half storey dwelling and detached garage with accommodation at first floor level at Egmont, 23 Wragby Road, Sudbrooke, Lincoln, Lincolnshire LN2 2QU in accordance with the terms of the application, Ref 145619, dated 30 September 2022, subject to the conditions set out in the attached schedule.

Applications for costs

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

Preliminary Matter

3. Since the Council issued its decision and following the submission of this appeal, a new Central Lincolnshire Local Plan (April 2023) (LP 2023) has been adopted. This supersedes the Central Lincolnshire Local Plan adopted in 2017, Policy LP 26 of which is referred to in the Council's decision notice. Therefore, I have considered the proposal against the policies of the up-to-date development plan including the LP 2023.

Background and Main Issue

4. Planning permission has previously been granted on the appeal site for demolition of the existing house and the construction of a new self-build replacement dwelling and detached garage. The appeal seeks to vary condition 3 of that planning permission¹ (the original planning permission) to amend the approved drawing numbers to allow for an alteration to the roof over a car port off the east elevation of the replacement dwelling.
5. On my site visit, I saw that the previously approved development has commenced and is substantially complete. Save for the proposed alteration to the roof over the car port, the proposal before me is substantively the same as the implemented planning permission. The original planning permission therefore represents a fallback position to which I attach significant weight in my assessment of this appeal.
6. Therefore, the main issue is whether the variation of condition 3 to include the amended plans would be reasonable having regard to the living conditions of occupiers of neighbouring dwellings with particular regard to light and privacy.

Reasons

7. There is a high close boarded fence to the boundary with No 25 Wragby Road next to the position of the car port. No 25 also has a detached flat roofed building which is situated next to the boundary with No 23 and aligns with part of the car port. The car port eaves height and footprint would be the same as that previously approved. The proposed alteration to the roof over the car port would retain a hip away from the boundary with No 25. Taking these factors into account, together with the limited extent of the increases in the height and bulk of the roof when compared with the previously approved roof, the proposal would not result in any material effect on levels of light experienced by occupiers of this neighbouring property when compared with the fallback position.
8. While not on their own determinative, the summer and winter sun studies provided by the appellant further persuade me that there would be no material loss of light for neighbouring occupiers. No detailed evidence to demonstrate otherwise has been provided by the Council or third-parties.
9. The proposal includes rooflight windows in the front facing roof slope of the proposed car port roof. Given their angle in the roof slope and position set away from the boundary with No 25, these rooflights would only provide oblique views towards the boundary with No 25. The other windows would be skylights within a flat section of the roof and would not facilitate views towards neighbouring properties. Consequently, I am satisfied that the main habitable windows and the more private garden area to the rear of this neighbouring property would not be materially overlooked as a result of the proposed amendments to the previously approved scheme. Therefore suitable levels of privacy would be retained for occupiers of this neighbouring dwelling.
10. Given the position of the proposed car port roof alteration to the eastern side of the replacement dwelling on the site, away from the neighbouring property at No 21 Wragby Road, I am also satisfied that there would be no material effects

¹ LPA Ref 139843

on the living conditions of occupiers of this other neighbouring property when compared with the extant planning permission on the site.

11. I conclude, the proposal would have an acceptable relationship with the living conditions of occupiers of neighbouring dwellings with particular regard to privacy and light. In that regard, it would comply with the amenity requirements in Policy S53 (Design and Amenity) of the LP 2023 and Policy 9 (Local Design Principles) of 'A Neighbourhood Plan for Sudbrooke 2018-2036' (made 2019) (the NP). In these respects the proposal also accords with the amenity requirements at Paragraph 130 of the National Planning Policy Framework.
12. The Council's decision notice refers to Policy 2 (Extensions and Alterations to existing dwellings) of the NP. The proposal relates to a replacement dwelling rather than an extension or alteration to an existing dwelling. In any case, given my findings, I am satisfied that the proposal would not conflict with the requirements in this policy to ensure that there shall be no significant reduction in the private amenity of the occupiers of neighbouring properties.

Other Matter

13. With regards to third-parties comments not covered under the main issue, there is no objective evidence before me to suggest that the proposal would result in a material increase in rainfall runoff when compared with the extant planning permission. Any noise and disruption experienced beyond that which could reasonably be expected during development would be a matter for the Council to investigate. The relationship of the wider proposal with the character and appearance of the area and neighbouring living conditions has been established through the original planning permission which has been implemented. I also note that the Council did not refuse planning permission on grounds other than that considered under the main issue.

Conditions

14. Other than condition 3, none of the other conditions attached to the previous planning permission on the site are being contested. The guidance in the Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged.
15. A time limit for development to be begun is not required as the development has already been substantively completed. I have amended condition 3 (now condition 1) to include the revised plans subject of this appeal whilst also retaining the reference to drawing No L-ADD-025 – 10A which relates to the previously approved detached garage which is not proposed to be altered under this appeal.
16. The evidence before me indicates that several of the other conditions on the original planning permission have previously been discharged². The Council's suggested conditions include conditions seeking continued compliance with the previously approved details. The suggested conditions also include retention of the previous conditions requiring new hardstanding to be constructed from a porous material, requiring tree protection measures to be installed during

² LPA Ref 141658

development, requiring the provision of obscure glazing to specified windows and the removal of permitted development rights in terms of any additions to the roof of the dwelling house and garage. Where applicable the drawing numbers in these conditions have been updated to relate to the revised drawing numbers subject of this appeal. These conditions have not been contested by the appellant and I am satisfied that it is reasonable and necessary to include them on the varied planning permission.

Conclusion

17. For the reasons given, the appeal is allowed and condition 3 is varied.

M Russell

INSPECTOR

Schedule of conditions

- 1) With the exception of the detailed matters referred to by the conditions of this consent, the development hereby approved shall be carried out in accordance with the following drawings: L-ADD-025 -01A (Site Location Plan), L-ADD-025-04F (Proposed Site Plan), L-ADD-025- 05C (Proposed Ground Floor Plan), L-ADD-025-06E (Proposed First Floor Plan), L-ADD-025-07E (Proposed Second Floor Plan), L-ADD-025-08E (Proposed Roof Plan) and L-ADD-025-09G (Proposed Elevations) and L-ADD-025-10 A (Proposed Garage Floor Plans and Elevations). The works shall be carried out in accordance with the details shown on the approved plans and in any other approved documents forming part of the application.
- 2) Development on the site shall proceed wholly in accordance with the details approved under 141658 in terms of full details of the materials and method of construction for the driveway. The driveway shall then be constructed in accordance with the approved details and thereafter retained as approved.
- 3) Development on the site shall proceed wholly in accordance with the details approved under 141658 in terms of the proposed new walling, roofing, windows, doors and other external materials. The development shall thereafter be constructed in accordance with the approved details.
- 4) Development on the site shall proceed wholly in accordance with the details approved under 141658 in terms of a scheme for the disposal of foul and surface waters. The development shall only be carried out in accordance with the approved details and prior to occupation of the dwelling.
- 5) Development on the site shall proceed wholly in accordance with the details approved under 141658 in terms of all boundary treatments. The agreed details shall be implemented in full prior to the occupation of the hereby approved dwelling and retained thereafter.
- 6) New hardstanding shall be constructed from a porous material or shall be appropriately drained within the site and shall be retained as such thereafter.

- 7) All existing trees and hedges shown as being retained on the plans hereby approved shall be protected by protective fencing prior to the commencement of development around the retained trees and hedges. The fencing should be positioned at the outer extents of the trees Root Protection Areas, as specified on Drawing No. L-ADD-025 - 04F. Such fencing shall be erected before development commences including ground scraping and shall be retained at all times whilst construction work is taking place. Nothing shall be stored or placed in any root protection area, nor shall the ground levels within those areas be altered, without prior written approval of the Local Planning Authority.
- 8) The dwelling and garage (with first floor living accommodation) hereby permitted shall not be occupied until the first floor window to an en-suite in the side (west) elevation of the proposed new house (Drawing No. L-ADD-025 - 09G) and until the first floor windows to a bedroom in the side (north) elevation of the proposed detached garage (Drawing No. L-ADD-025-10A) have been fitted with obscure glazing and retained as such thereafter.
- 9) Notwithstanding the provisions of Class B of Schedule 2 Part 1 of the Town and Country Planning (General Permitted Development) (Amendment) Order 2015, or any Order revoking and re-enacting that Order, the buildings hereby permitted shall not have any additions to the roof of the dwelling house and garage unless planning permission has first been granted by the Local Planning Authority.