



Appeal Decision

Site visit made on 18 October 2011

by **Mike Moore BA(Hons) MRTPI CMILT MCIHT**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 8 November 2011

Appeal Ref: APP/E2530/A/11/2155329

96 Millfield Road, Deeping St James, Peterborough, PE6 8QY

- 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 Edwin Raymen against the decision of South Kesteven District Council.
 - The application Ref S10/2546, dated 11 November 2010, was refused by notice dated 20 December 2010.
 - The development proposed is the division of one large six bedroom property into two three bedroom properties.
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Decision

1. The appeal is allowed and planning permission is granted for the division of one large six bedroom property into two three bedroom properties at 96 Millfield Road, Deeping St James, Peterborough, PE6 8QY in accordance with the terms of the application, Ref S10/2546, dated 11 November 2010, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The building shall not be occupied as two separate dwellings until the areas shown on drawing No 23116-801 for the parking of vehicles have been provided. Those areas shall not thereafter be used for any purpose *other* than the parking of vehicles.
 - 3) No development shall take place until there has been submitted to and approved in writing by the local planning authority full details of the boundary treatment to be erected between the rear gardens of the sub-divided property. The boundary treatment shall be completed before the building is occupied as two separate dwellings. Development shall be carried out in accordance with the approved details.
 - 4) The development hereby permitted shall be carried out in accordance with the following approved plans: 23116-801, 23116-802.

Development & Growth

Main Issues

2. The main issues are the effects of the proposed development 1.) on the living conditions of future residents in terms of possible overlooking and the provision of private amenity space and 2.) on the character and appearance of the area.

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Reasons

3. The appeal property is a 2-storey semi-detached dwelling with an annex. The annex comprises a 2-storey extension to the side with a long single-storey element

to the rear along the side boundary of the plot. The proposal is to subdivide the building and garden to form two separate dwellings.

4. Windows to primary habitable rooms in the existing single-storey part of the dwelling would be close to and face the proposed new common boundary between the sub-divided dwellings. However, this would be marked by a fence. In my view, appropriate boundary treatment would prevent an unacceptable degree of overlooking. Some details of the fence are included with the application but I consider that a condition requiring full details is necessary to ensure that this is achieved.
5. The proposal would result in an irregular shaped and mainly narrow garden relating to that part of the sub-divided property that would include the single storey element and both gardens would be small. However, these would be usable spaces which may suit the preferences of future occupants.
6. My conclusion is that the appeal proposal would not result in unacceptable living conditions for future occupants in terms of either overlooking or the provision of private amenity space. In this respect, it would accord with the objectives of Policy EN1 of the South Kesteven Core Strategy (CS) and Policies 1 and 2 of the East Midlands Regional Plan (RP).
7. The area is characterised by semi-detached and detached dwellings. The appeal proposal would result in a short terrace. However, there are already two separate front doors on the property and the only material change to the appearance of the front of the building would be the sub-division of the existing parking area by means of a low wall. The sub-division of the rear amenity area would result in small gardens with a layout untypical of the area. Nonetheless, the visual impact and effect on the character of the wider locality would be very limited. As such, I conclude that the proposal would not cause material harm to the character and appearance of the area. In that regard it would not conflict with the aims of CS Policy EN1 and RP Policies 1 and 2.
8. I have considered whether an application to build new dwellings with this particular layout would be acceptable. However, that is not the proposal before me. I have in any event assessed the possible harm that may arise from the appeal scheme. In terms of national policy the proposal would result in a more efficient use of land. None of the other matters raised are of such significance that they would outweigh the considerations that have led to my conclusions on the main issues.
9. In addition to the time limit for commencement I agree with the Council that a condition to retain the parking area to the front of the property would be in the interests of highway safety. Otherwise than as set out in this decision and conditions, it is also necessary that the development shall be carried out in accordance with the approved plans for the avoidance of doubt and in the interests of proper planning and I have attached a condition to this effect. I have had regard to the advice in Circular 11/95 in the detailed wording of the conditions.
10. For the reasons given above I conclude that the appeal should be allowed.

M J Moore

INSPECTOR



Appeal Decision

Site visit made on 9 November 2011

by **E Norma Farish BA DipTP MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 16 November 2011

Appeal Ref: APP/E2530/A/11/2156854

**Carlton View, 17 Main Street, Normanton-on-Cliffe, Grantham, Lincolnshire
NG32 3BH**

- 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 DFG and Mrs JA Farmer against the decision of South Kesteven District Council.
 - The application Ref 511/0221/OL, dated 3 February 2011, was refused by notice dated 17 June 2011.
 - The development proposed is conversion and extension of existing garage within garden to create a three-bedroomed bungalow.
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Decision

1. The appeal is dismissed.

Main Issues

2. This case turns on the impact of the proposed development on the objectives of housing location policies.

Reasons

3. Carlton View is an extended south-facing house, one of a back-to-back pair abutting the A607. Its double garage, which is close to a stable block but is within the garden area, adjoins the southern boundary of its extensive plot roughly 17m from the highway boundary. The appeal site lies approximately seven miles north of Grantham and south of the small settlement of Normanton-on-Cliffe which is one of several villages along the A607 between Grantham and Lincoln. Normanton-on-Cliffe has an hourly bus service in each direction and a church but appears to have no shop or other community facilities, and is not a sustainable location.
 4. National planning policies, as set out in Planning Policy Statement 3 *Housing* (PPS3), PPS7 *Sustainable Development in Rural Areas*, and elsewhere, aim to protect the openness of the countryside and to locate most new residential development in more sustainable locations where there is ready access to employment, shopping, and social, community and leisure facilities by means of transport other than private motor vehicles. The draft National Planning Policy
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Framework, though currently a consultation document and so carrying little weight, also supports sustainable development.

5. Policies SP1, SP2 and H1 of the South Kesteven District Council Core Strategy, adopted in 2010, seek to focus the majority of new development on Grantham, with more modest development in Bourne, Stamford and the Deepings and in more sustainable villages identified as local service centres. Normanton-on-Cliffe is not one of these. In all other areas housing development is to be restricted to affordable local need housing, agricultural/forestry workers' accommodation, and conversions of buildings which fulfil certain provisos. No evidence put forward suggests that the appeal proposal falls into either of the first two categories.
6. The garage appears to be of sound construction and to a degree complements materials and detailing of the adjoining house, but it is less than 20 years old and is not of a historic, traditional or vernacular form that contributes to the character of the local area. Moreover, the garage is clearly an adjunct to Carlton View. The layout proposed would increase the floorspace of the existing building by almost 300%, and with such a substantial extension the scheme should more properly be regarded as a new building. The resulting dwelling would come to within 2.5m of the road frontage. Because of a gentle fall across the site the floor level would be 1m or more below road carriageway level; even so, the new bungalow would be much larger and, notwithstanding a tall deciduous hedge in the neighbouring field, more visually prominent than the present garage and residential in appearance. It would, therefore, not appear subordinate or ancillary to the existing house but would detract from the open rural character of the landscape. The appeal proposal therefore conflicts with policies SP1 and H1 of the Core Strategy.
7. The existing house and its attached north-facing neighbour are separated by open land from the built-up part of Normanton-on-Cliffe, and the proposed bungalow would be another 38m or so further south. Although north of the village nameplate and the speed restriction sign it would extend the apparent village limits and encroach into open countryside. I saw that a detached house had been allowed on land on the other side of the A607 not much closer to the village centre, but the council asserts that this followed the grant of a Certificate of Lawful Development and, as with other cases mentioned by the appellants, the individual circumstances differ from those of this appeal case.
8. I have given careful consideration to all matters raised in the representations before me, especially the appellants' requirement for single storey living accommodation for health and mobility reasons, but I am not satisfied that the appeal proposal is the only solution to this and, on balance, I conclude that because of the impact on the objectives of housing and countryside policies planning permission for the proposed development should not be granted. The appeal fails.

E Norma Farish

INSPECTOR



Appeal Decision

Site visit made on 7 October 2011

By **Brian G. Crane, M Hort, P Dip Arb (RFS), OND Hort, FLS, F Arbor A, MIC For, MI Hort, MEWI, Chartered Arboriculturist**

an **Arboricultural Inspector** appointed by the Secretary of State for Communities and Local Government

Decision date: 10 November 2011

Appeal Ref: APP/TPO/E2530/2001

**'Croft House', Stainfield Road, Kirkby, Underwood, Bourne, Lincolnshire
PE10 0SG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of consent to undertake work to a tree protected by a Tree Preservation Order subject to conditions.
- The appeal is made by Ms S M Shepperd against the decision of South Kesteven District Council.
- The application Ref: S11/1023/TPO, dated 4 May 2011, was approved on 7 June 2011.
- Consent was granted for the removal of one sycamore (*Acer pseudoplatanus*).
- The conditions in dispute are (3) 'the tree to be felled shall be replaced in accordance with details which shall have been approved in writing by the Local Planning Authority within three months of the felling of the tree. The date of the felling shall be notified to the Local Planning Authority and the replacement tree shall be planted during the first planting season or within 12 months, whichever is the sooner, following the felling of the tree.' (4) 'A replacement tree which, during a period of five years, dies, is removed or becomes seriously damaged or diseased, shall be replaced in the next planting season or within 12 months, whichever is the sooner, with a tree of similar size and species, unless the Local Planning Authority gives written consent to any variation'.
- The reasons given for the conditions are: 'In the interest of visual amenity and for the avoidance of doubt.'
- The relevant Tree Preservation Order is the County of Lincoln - Parts of Kesteven, Kirkby Underwood Tree Preservation Order 1972. Proof of confirmation of the Order has not been produced, however the District Council has provided copies of the relevant pages of the Land Registry and I have accepted this as proof of confirmation and determined the appeal on that basis.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Consent was given by the Local Planning Authority for the felling of a mature sycamore (*Acer pseudoplatanus*). In the intervening period this tree had not been removed and was present at the time of my site inspection.

Development & Growth

Main Issues

3. I consider the main issues in this case to be:-

- i. The effect on the character and amenity of the area if no replacement is planted.

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- ii. Will the replacement tree cause such a nuisance to users of the road or to the owners of Croft House that this is sufficient to outweigh the value which would be provided by a new planting?
- iii. Are the suggested replacement planting species and positioning appropriate?

Reasons

The effect of the proposal on the character and amenity of the area.

4. Stainfield Road is a tree-lined, residential road leading from the main village of Stainforth into more rural areas beyond to the south. The road supports a population of mature trees, including some sycamores which are mainly within private gardens adjoining Croft House. The trees contribute to the landscape quality and visual amenity of the area, providing screening to the built forms, and landscape uniformity along the length of the road. Failure to replace the removed sycamore would result in the degradation of the local landscape and would be harmful to visual amenity.

Will the replacement tree cause such a nuisance to users of the road or to the owners of Croft House that this is sufficient to outweigh the value which would be provided by a new planting?

5. Although the trees along Stainfield Road were in full leaf at the time of my visit and I did not consider them oppressive or excessively dominant. There is approximately 30 metres between the appeal tree and major trees either side of it. Clearly, as the tree stands on the side of the road, it will cast shade on to the road surface, however, this will change with the time of day and the season.
6. The appellant has raised the question of the safe passage of vehicles along the highway (Stainfield Road). The matter of highway maintenance, including the pruning of trees to allow vehicle access, is a matter for the Local Highway Authority. They are sufficiently legally empowered to ensure the safe passage of vehicles along such highways. I did not note evidence of damage to trees lining the road. The crown of the appeal tree and those of other trees in the vicinity have clearly been lifted on the road side to allow for the passage of vehicles in the past and therefore form crowns well above the carriageway. The nearby telephone line which crosses the road is likely to present as much of a risk to high sided vehicles, as it crosses at roughly the height of the lowest branch of the appeal tree (current guidance is that telecommunications cables should pass at between 5.2 and 5.9 metres above a carriageway). In addition, the base of the tree is separated from the carriageway by a paved footway. The providers of public utilities, such as telecommunications have legal powers which allow them to prune trees interfering with their apparatus. Similarly public transport operators may approach Highway Authorities to ensure that their vehicles have unimpeded access along approved routes.

Are the suggested replacement planting species and positioning appropriate?

7. The Local Planning Authority's does not specify a species for replanting, although they state 'Another sycamore or Norway maple would be suitable in this case'. The appellant has expressed concerns about the planting of either species, however the species has not been made the subject of a condition and that will be for the parties to agree at some point in the future

Conclusions

8. The existing tree contributes to the character, amenity and landscape quality of the area. The planting of a replacement tree would be appropriate and restore the landscape quality currently existing. The matters of passage of vehicles and overhead telecommunications cable clearance have been considered and do not constitute grounds for the removal of the replanting conditions imposed by the Local Planning Authority. For these reasons, I dismiss the appeal and uphold the conditions imposed by the Council requiring the planting of a replacement tree.

Brian G. Crane

Arboricultural Inspector



Appeal Decision

Site visit made on 9 November 2011

by **E Norma Farish BA DipTP MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 24 November 2011

Appeal Ref: APP/E2530/A/11/2158204

**Wagtail Country Park, Cliff Lane, Marston, Grantham, Lincolnshire
NG32 2HU**

- 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 J Cooke against the decision of South Kesteven District Council.
 - The application Ref S11/1193/FULL, dated 24 May 2011, was refused by notice dated 12 July 2011.
 - The development proposed is decking to holiday lodges and timber office/reception building.
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Decision

1. The appeal is allowed and planning permission is granted for decking to holiday lodges and timber office/reception building at Wagtail Country Park, Cliff Lane, Marston, Grantham, Lincolnshire NG32 2HU in accordance with the terms of the application, Ref S11/1193/FULL, dated 24 May 2011.

Preliminary Points

2. Wagtail Country Park comprises fishing lakes and a holiday caravan site together with sites for ten lodges/mobile homes (to be occupied for no more than eleven months of the year) with planning permission, three of which are currently in situ. The proposed timber office/reception building and the decking for the three existing lodges are already in place, and so the appeal application is partly retrospective.
3. There is no objection to the office/reception building or to decking to the lodges except for that to Unit 5.

Main Issues

4. This case turns on the amount of decking to Unit 5 and its impact on the character, setting and openness of the site as a whole.

Reasons

5. The Wagtail Country Park lies in flat, open countryside north of Grantham, east of the A1 road, and well outside the built up area of any settlement. It adjoins another area of fishing lakes surrounded by heavy woodland and is itself well
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screened from exterior view by more recent tree planting on peripheral mounding. The lodges/mobile homes and decking will therefore be visible only from within the site.

6. The three-bedroom lodges, all of similar external finish, are each positioned at right angles to the circular driveway and to the lake frontage, so that the decking, at the end adjoining the lake edge, is not much wider than the narrower axis of the lodge. Unit 5, a luxury specification lodge currently occupied by the park owner, is the exception. Not only is it longer than the other units but it is also positioned with its long axis more or less parallel to the service road and the lake shore, a positioning agreed as part of planning permission S10/1243/FULL dated 17 September 2010. The decking, which incorporates a hot tub, extends along the full length of the lake shore frontage of the unit and also projects much further towards the water than the other decks. It is therefore nearly four times as large in area as the others. Moreover, it differs from the others in appearance, having glazed panels rather than balustrading. Nonetheless it is clearly an amenity area ancillary to Unit 5.
7. Policy EN1 of the South Kesteven Core Strategy adopted in July 2010 seeks to ensure that development is appropriate to the character and significant natural, historic and cultural attributes and features of the landscape within which it is situated, and contributes to its conservation, enhancement or restoration. The appeal site is a tourism and leisure facility and the majority of the area, including the lodges, is not visible from beyond the site boundaries. The decking to Unit 5 does not, therefore, have any impact on the wider area. The Wagtail Country Park itself is pleasantly laid out with mixed tree planting on the periphery and recent tree and shrub planting within which will further enhance its appearance as it matures. The lodges are well separated and in addition to the larger lake there is a good deal of open grassed land, giving the site as a whole an open spacious character and attractive appearance.
8. All of the lodges are exposed to view within this open area, Unit 5 being slightly more prominent because of its size and positioning though this no doubt will lessen when all of the approved lodges are in place and the caravan pitches occupied. The size of the deck, which is almost equal to the floorspace of the lodge, does emphasise the difference between Unit 5 and the other lodges. Even so, within the arena of the Country Park neither the deck, nor the lodge and deck together, are so large or so strikingly anomalous as to have a materially adverse effect on either the leisure character, the visually attractive setting or the openness of the site. Provided that the decking to Unit 5 remains ancillary to the use and occupation of that unit as a single holiday lodge, and I am not aware of any suggestion of a proposal to alter that use, I am satisfied that the appeal scheme does not conflict with the aims of Core Strategy policy EN1.
9. After careful consideration of all points raised in the representations before me I conclude that the planning permission sought might be granted. The appeal succeeds.

E Norma Farish

INSPECTOR