

Application Number:	2020/0363/FUL
Site Address:	18-20 Kingsway, Lincoln, Lincolnshire
Target Date:	6th November 2020
Agent Name:	None
Applicant Name:	Mr David Irons
Proposal:	Erection of 9no. Dwellinghouses (Resubmission) (Revised plans).

Background - Site Location and Description

The application site is 18-20 Kingsway, located to the north west of the road. When the frontage of the site is viewed from Kingsway there is a two storey brick warehouse to the left, which has extensions to the side and rear. A single storey steel clad building is located more centrally on the site with a fenced enclosure to the right housing a number of shipping containers, operated by Cathedral Self Storage Ltd. The rear boundary is defined by an approximately 1.8m high fence and the rear gable of the brick warehouse, forming the side boundaries of 15 St. Andrews Close and 38 Hope Street to the north west. Adjacent to the side, north east boundary is a narrow strip of land, which appears to be being used for the storage of materials, with the side boundary of 12 Kingsway beyond. Adjacent to the opposite side, south west boundary are allotments. The site is located within Flood Zone 2.

The wider area is predominantly characterised by a mix of two storey semis and terraces with the rear of the Ducati Showroom directly opposite the site. Kingsway provides access to Bishop King Primary School, located at the end of the street to the west.

The application is a resubmission for the erection of nine, three bedroom dwellinghouses. The development would provide 19 car parking spaces located within a parking area to the rear of the site.

The application has been revised during the process; re-configuring the car parking layout and altering the design of the roof and rear elevation. All neighbours have been re-consulted on these changes.

Planning History

The site has been subject to a recent planning application (2019/0007/FUL) which was considered and determined by members of the committee on 9th October 2019. The application was for the erection of six, two bedroom dwellinghouses and a three storey building to accommodate eight, two bedroom apartments and four, one bedroom apartments. Associated external works included the provision of 18 car parking spaces and a communal garden.

Central Lincolnshire Local Plan (CLLP) Policies LP11 and LP12 and the Central Lincolnshire Developer Contributions Supplementary Planning Document (SPD) state that affordable housing provision as well as education, health and open space and green infrastructure contributions will be sought on all qualifying development sites of 11 dwellings or more, or on development sites less than 11 units if the total floorspace exceeds 1,000 sqm. The previous development exceeded this threshold, being for 18 residential units, and was therefore expected to provide contributions towards affordable housing as well as playing fields and local green infrastructure. The development was also Community Infrastructure Levy (CIL) liable, which is a mandatory payment.

The applicant made a case that the requirement for these contributions and the CIL payment would make the scheme unviable, and a viability report was submitted to support this position. The SPD advises that development viability is not only relevant but critical to determining planning applications.

The applicant's report was assessed on behalf of the authority by an independent third party. The independent assessment concurred with the appraisal testing within the report, which showed that the scheme would be unviable even before any planning policies are applied. It was concluded that the scheme could not provide any contributions.

Members of the committee considered the application and concluded that, notwithstanding the findings of the viability report and independent assessment, the lack of affordable housing provision was unacceptable. Members accordingly refused planning permission for the following reason:

1. The development would neither provide on-site affordable housing nor a financial contribution towards an off-site provision. While a viability assessment has demonstrated that this requirement cannot be met in full it also illustrates that the development is not viable even with no on-site provision or financial contribution, which does not provide the opportunity for the Local Planning Authority to negotiate a reduced provision. The development would therefore not be policy compliant or sustainable and would fail to meet the needs of residents unable to compete on the open market, contrary to Central Lincolnshire Local Plan Policies LP1 and LP11, the Central Lincolnshire Developer Contributions Supplementary Planning Document and para. 59 of the National Planning Policy Framework.

Members also raised concern regarding the level of parking. The scheme provided a total of 18 off-street parking spaces, one per dwelling. Objections were received from local residents considering that this would be insufficient and would result in on-street parking on Kingsway. Lincolnshire County Council as Local Highway Authority (HA) raised no objection to the level of parking or the access arrangements. However, members concurred with the objectors and the application was also refused for the following reason:

2. Notwithstanding the details provided with the application the development would lead to an increased demand for on street parking which would exacerbate the current parking issues causing harm to the amenities which existing residents in the vicinity of the site may reasonably expect to enjoy, contrary to Central Lincolnshire Local Plan Policy LP26.

The applicant appealed the council's decision to refuse planning permission. The Planning Inspector considered both grounds for refusal. With regard to the lack of affordable housing the Inspector considered that:

"... the scheme in neither delivering on any contribution towards affordable housing or demonstrating how the scheme could actually be delivered is in conflict with policies LP1 and LP11 which amongst other things aim to deliver development which is sustainable and can contribute towards the provision of affordable housing which a new development of this scale necessitates".

With regard to the level of parking the Inspector considered:

“At the time of my visit I could see there was limited space available to park cars on the street. I acknowledge this is only a snapshot in time and recognise being on a street serving a school there may well be additional pressure at particular times of the day. However, taking into account the accessibility of the site to local services and facilities, the provision of 18 parking places on site which exceeds the council standard and the range of transport modes available in close proximity, the scheme does not conflict with policy LP26 of the LP which encourages good design and respect for the amenity of residents”.

Therefore, while the Inspector did not have an issue in terms of the level of parking, the benefit that would come from the scheme in the provision of 18 dwellings did not outweigh the harm in terms of the lack of affordable housing provision. The appeal was dismissed on these grounds.

Case Officer Site Visit

Undertaken on 9th July 2019.

Policies Referred to

- Policy LP1 A Presumption in Favour of Sustainable Development
- Policy LP2 The Spatial Strategy and Settlement Hierarchy
- Policy LP14 Managing Water Resources and Flood Risk
- Policy LP16 Development on Land affected by Contamination
- Policy LP25 The Historic Environment
- Policy LP26 Design and Amenity
- Supplementary Planning Document Central Lincolnshire Developer Contributions
- National Planning Policy Framework

Issues

- Principle of Use
- Developer Contributions
- Visual Amenity
- Residential Amenity
- Access and Highways
- Flood Risk and Drainage

Consultations

Consultations were carried out in accordance with the Statement of Community Involvement, adopted January 2018.

Statutory Consultation Responses

Consultee	Comment
Environment Agency	Comments Received

Lincolnshire Police	Comments Received
Upper Witham, Witham First District & Witham Third District	Comments Received
Education Planning Manager, Lincolnshire County Council	Comments Received
Highways & Planning	Comments Received

Public Consultation Responses

Name	Address
Miss Jenny-May Kershaw	11 Kingsway Lincoln Lincolnshire LN5 8EU
Ms Julie Porter	12 Kingsway Lincoln Lincolnshire LN5 8EU
Mr Adam Titley	9 Kingsway Lincoln Lincolnshire LN5 8EU
Ms Maxine Grant	5 Kingsway Lincoln Lincolnshire LN5 8EU

Consideration

Principle of Use

CLLP Policy LP2 advises that the Lincoln Urban Area will be the principal focus for development in Central Lincolnshire, including housing. Officers are therefore satisfied that the principle of the residential use is wholly appropriate in this location. Supporting the application would also be in accordance with CLLP Policy LP1 which states that there should be a presumption in favour of sustainable development and planning applications that accord with the policies in the Local Plan will be approved without delay. This presumption in favour of sustainable development reflects the key aim of the National Planning Policy Framework (NPPF).

Developer Contributions

The proposed development is for nine dwellings, with a total floorspace falling below 1,000spm. This is therefore below the thresholds set out by policies within the CLLP and the SPD (i.e. developments of 11 dwellings or more, or on development sites less than 11 units if the total floorspace exceeds 1,000sqm). Accordingly this development would not trigger the requirement for affordable housing or financial contributions towards education, health or open space and green infrastructure.

The dwellings within the proposed development would be CIL liable, which is a mandatory payment.

Visual Amenity

The development comprises two terraces of dwellings, both fronting Kingsway, with the vehicular access point in between. Each dwelling has a small, walled forecourt and garden land to the rear. A car park accommodating 19 spaces is also located to the rear. Officers consider that the site is of a sufficient size to comfortably accommodate the proposed development along with the associated access, parking and garden areas. The development represents a good use of land and would have a strong presence in the street, which would visually be an improvement on the current arrangement. The occupant of 12 Kingsway supports the application in this respect.

The roof design of the dwellings has been amended at the request of officers during the application process, to ensure that the pitch and height was appropriate. The roof now appears as a more traditional pitch with a dormer to the rear. Therefore, despite an additional floor of accommodation within the roof, the dwellings would be of a traditional two storey scale from the front. The submitted streetscene illustrates the overall ridge height of the dwellings is comparable with the neighbouring properties fronting Kingsway. Officers are therefore satisfied that the proposal would relate well to the site and surroundings in relation to siting, height, scale and massing.

It is also considered that the design of the proposal is acceptable; which is traditional in its appearance to the front and more modern to the rear. The dwellings would be constructed with red brick, a slate roof and grey powder coated aluminium windows. To the rear the elevation would incorporate non-reflective standing seam zinc cladding, with the bay to the front also clad in zinc. The extent of the zinc to rear elevation has been reduced at the request of officers; and instead of this relating to the whole rear elevation it is now limited to the modern, curved single storey projection and the dormer and balconies. The traditional proportions of the frontage of the dwellings reflects the terraces in the vicinity with details including the bay, corbelling to the eaves, stone heads and cills reinforcing the traditional character. The approach to the frontage is therefore considered to be appropriate and would sit comfortably in the context. Officers also have no issue with the modern approach to the rear, and consider that the palette of materials and design will add interest. Conditions would require samples of the proposed materials for approval and the setting of windows and doors within reveal to ensure the overall finish and quality of the development is to a high standard.

With regard to boundary treatments officers welcome the low level wall to the front boundary and consider that this, along with the proposed areas of hard and soft landscaping within the site, would improve the overall character of the development and its surroundings. Further details of these will be conditioned on any grant of consent.

The proposal would therefore be in accordance with CLLP Policy LP26 and also paragraph 127 of the NPPF, which requires that developments should add to the overall quality of the area and be sympathetic to local character.

Residential Amenity

The side elevation of the terrace, towards the right hand side of the site, would be located on the side, north east boundary. The rear gardens of the properties would extend behind with the car park beyond. Adjacent to this site boundary is the neighbouring strip of land, which measures approximately 3-4m wide, with the side boundary of 12 Kingsway beyond. Officers are satisfied that the position of the proposed terrace and the sufficient separation from no. 12 would ensure that it would not appear unduly overbearing or result in an unacceptable degree of loss of light. With regard to overlooking the two storey side elevation of the terrace is blank and any overlooking from the first floor windows or dormers to the rear elevations would be at an oblique angle only. The first and second floor balconies are set into the rear elevation so, again, any overlooking from these would be at an oblique angle only. The side elevation of the single storey rear off-shoot would be of a solid brick construction.

The rear, north west boundary forms the side boundaries with 15 St. Andrews Close and 38 Hope Street. The majority of the boundary with 15 St. Andrews Close, a bungalow, is currently defined by the rear elevation of the existing warehouse. No objections have been received from the neighbouring occupants of no. 15. At its closest point the three storey elevation of the proposed terrace would be located approximately 21m from the boundary, with the closest separation to the side elevation of no. 15 being approximately 24m. Given this, and considering the existing relationship of the two storey warehouse on the boundary, officers are satisfied that the proposal would not appear overbearing or result in an unacceptable degree of loss of light. The rear facing elevation of the proposal includes first and second floor windows and balconies. While this appears on the elevation as a large amount of glazing the separation is more than sufficient and, on balance, officers do not consider that the impact from overlooking would be significantly harmful.

In terms of the relationship with 38 Hope Street the three storey rear elevation of the proposal would be located approximately 16m from the boundary with this property, and approximately 19m from the neighbour's side elevation. The neighbour's side elevation is blank and it is therefore not considered that the proposal would cause undue harm through the creation of an overbearing structure or result in an unacceptable degree of loss of light. Similarly to the consideration of the overlooking impact towards 15 St. Andrews Close, the separation is also sufficient towards no. 38 and will ensure the level of overlooking from the proposed windows and balconies would not be to an unduly harmful degree. No objection has been received from the neighbouring occupants.

Parking spaces are proposed along the rear boundary with 15 St. Andrews Close and 38 Hope Street as well as to a small section of the side boundary with 12 Kingsway. The plans indicate a substantial boundary wall/fence to these boundaries which will limit the potential impact from associated vehicle movements. This will be conditioned on any grant of consent to be installed prior to the occupation of the development. To further protect the amenities of neighbours the City Council's Pollution Control Officer has requested that details of any external lighting be conditioned for approval to ensure that this is appropriately designed to avoid glare or any off-site impacts.

An objection from the occupants of 11 Kingsway raises concern regarding overlooking to this property's front bedroom window from the development. The separation is over 12m and is a typical across the street relationship, which is not considered by officers to be unduly harmful.

There are no other residential properties directly abutting the site. Officers are satisfied that the amenities which neighbouring occupants and those within the wider area may reasonably expect to enjoy would not be unduly harmed by or as a result of the development through either loss of light, overlooking or the creation of an overbearing structure. It is also considered that the level of amenity for future occupants of the development would be acceptable. The proposal would therefore be in accordance with the requirements of CLLP Policy LP26.

Access and Highways

Vehicular access to the site would be from Kingsway between the two terraces. The application initially proposed 10 parking spaces. Objection to the level of parking was received from the occupants of 5, 9 and 11 Kingsway. The objectors considered that one space per dwelling is inadequate, which will lead to on-street parking from residents and their visitors, adding to the existing issues on the street. Additional concerns raised relate to the increased volume of traffic, the narrow access, highway safety and issues associated construction vehicles. The location of school at the end of the road would exacerbate these issues at drop off and pick up times.

Lincolnshire County Council as Highway Authority (HA) also did not consider that the level of parking was sufficient. They advised that three bedroom dwellings should have a mix of one or two spaces, and suggested the provision of a further three or four spaces (a total of 13 or 14) would be acceptable.

The application has been accordingly amended and the car park now provides a total of 19 off street parking spaces; two per dwelling with one extra visitor space. Neighbours were re-consulted on these plans and an additional response was received from the occupants of 11 Kingsway, confirming the revisions do not address their concerns.

Further to the submission of the revised plans the HA has raised no objection to the level of parking or the access arrangements. The suggested conditions requiring the reinstatement of sections of dropped kerbs that are no longer required to full height kerbs and the submission of a construction management plan will be applied to any grant of consent.

Flood Risk and Drainage

The site is located within Flood Zone 2 and the application is accompanied by a Flood Risk Assessment (FRA). The Environment Agency (EA) has considered this and has raised no objections subject to a condition requiring the development to be constructed in accordance with the submitted FRA.

Officers have been copied into an email from the Upper Witham Drainage Board to the Lincolnshire County Council in their capacity as Lead Local Flood Authority in respect of surface water drainage. The County Council has raised no objection to the application with regard to surface water drainage. The EA has requested that there shall be no infiltration of surface water drainage without prior consent, which will be conditioned.

Other Matters

Contaminated Land

The City Council's Pollution Control Officer has advised that, due to past uses on and in the vicinity of the site, there is the potential for significant contamination to be present. Conditions have been requested which will be attached to the grant of any permission.

Comments have also been received from the EA in this respect, also noting that the previous use of the site presents a potential risk of contamination to controlled waters. The specific requirements of the suggested conditions will be incorporated with those suggested above.

Air Quality and Sustainable Transport

The City Council's Pollution Control Officer has advised that, whilst it is acknowledged that the proposed development, when considered in isolation, may not have a significant impact on air quality, the numerous minor and medium scale developments within the city will have a significant cumulative impact if reasonable mitigation measures are not adopted. Accordingly a condition will require details of charging points to be submitted for approval and for the units to be installed before development is first occupied.

Trees

There are no trees within the site although there are four highway trees to the front, all of which are to be retained. At the time of the previous application officers sought the advice of the City and County Council's Arboricultural Officers regarding the potential impact on these as a result of the construction phase and the necessity to adjust the position of the existing dropped kerb. The officers had no issues with the proposals subject to a condition requiring details of tree protection measures. This will duly be applied to any grant of consent.

Archaeology

At the time of the previous application the City Archaeologist recommended the standard archaeological conditions be attached to any grant of permission to ensure that this matter is considered and dealt with as necessary. These will be applied to any grant of consent.

Bin Storage

Bins can be accommodated within the rear gardens of the proposed dwellings with the site layout indicating an area within the car park for bin collection. An email outlining the requirements for bins from the City Council's Community Contracts Manager has been sent to the applicant for their information.

Construction

Comments have been received from the neighbouring objectors with concerns regarding congestion, safety and noise during construction. While issues relating to the construction phase are not a material planning consideration the HA has requested that a Construction Management Plan be conditioned. This would mitigate against traffic generation during the

construction stage, controlling aspects such as parking of construction vehicles, storage of plant and materials and the routes of construction traffic. The City Council's Pollution Control Officer has also recommended a condition restricting the hours of construction and delivery.

Design and Crime

Lincolnshire Police has raised no objections to the application in this respect.

Site Visit Note

There has been no site visit undertaken in person due to the restrictions in place as a result of the Covid 19 pandemic. The proposals have instead been assessed using various online tools together with photographs taken at the time of the site visit for the previous application. Officers are satisfied that there is sufficient information consequently available to assess any potential impact and to make a robust decision on the proposals.

Application Negotiated either at Pre-Application or During Process of Application

Yes.

Financial Implications

None.

Legal Implications

None.

Equality Implications

None.

Conclusion

The principle of the use of the site for residential purposes is considered to be acceptable and the development would relate well to the site and surroundings, particularly in relation to siting, height, scale, massing and design. The proposals would also not cause undue harm to the amenities which occupiers of neighbouring properties may reasonably expect to enjoy. Technical matters relating to access and parking, contamination, flood risk, trees and archaeology are to the satisfaction of the relevant consultees and can be dealt with appropriately by condition. The proposal would therefore be in accordance with the requirements of Central Lincolnshire Local Plan Policies LP1, LP2, LP14, LP16, LP25 and LP26 and the National Planning Policy Framework.

Application Determined within Target Date

Yes.

Recommendation

That the application is Granted Conditionally subject to the following conditions:

- Time limit of the permission
- Development in accordance with approved plans
- Contamination
- Archaeology
- Land levels
- Samples of materials
- Implementation of landscaping
- Tree protection measures
- Implementation of boundary treatments
- Assessment of off-site impact of external lighting
- Electric vehicle recharge points
- Development in accordance with Flood Risk Assessment
- No surface water infiltration without consent
- Reinstatement of full height kerbs
- Construction Management Plan (traffic generation and drainage)
- Construction of the development (delivery times and working hours)
- Windows and doors set in reveal