

DEVELOPMENT MANAGEMENT

APPEALS LIST – 21ST JANUARY 2021

APPLICATION NUMBER & SITE ADDRESS

APPEAL REFERENCE & STATUS

OFFICER & PROCEDURE

<p>DM/0679/19/TPO</p> <p>94 Station Road Great Coates Grimsby North East Lincolnshire DN37 9NN</p>	<p>AP/017/19</p> <p>INPROG</p>	<p>Paul Chaplin</p> <p>Fast Track</p>
<p>DM/1100/19/FUL</p> <p>Humberston Motors 223 - 225 Humberston Road Cleethorpes North East Lincolnshire DN35 0PH</p>	<p>AP/014/20</p> <p>INPROG</p>	<p>Lauren Birkwood</p> <p>Written Representation</p>
<p>DM/0130/20/FUL</p> <p>36 Bargate Grimsby North East Lincolnshire DN34 4SW</p>	<p>AP/015/20</p> <p>INPROG</p>	<p>Jonathan Cadd</p> <p>Written Representation</p>
<p>DM/0260/20/FUL</p> <p>Land At Hewitts Avenue New Waltham North East Lincolnshire</p>	<p>AP/016/20</p> <p>INPROG</p>	<p>Jonathan Cadd</p> <p>Written Representation</p>



Appeal Decision

Site Visit made on 21 December 2020

by **Graham Wraight BA(Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 8 January 2021

Appeal Ref: APP/B2002/W/20/3258291

43 Humberston Avenue, Humberston, Grimsby, DN36 4SW

- 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 Thomas Culshaw against the decision of North East Lincolnshire Council.
 - The application Ref DM/1166/19/OUT, dated 9 December 2019, was refused by notice dated 26 June 2020.
 - The development proposed is an outline application for the erection of two bungalows and garages with access to be considered.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of two bungalows and garages at 43 Humberston Avenue, Humberston, Grimsby, DN36 4SW in accordance with the terms of the application, Ref DM/1166/19/OUT, dated 9 December 2019, subject to the conditions set out in the schedule at the end of this decision.

Procedural Matters

2. The application is submitted in outline form with only the matter of access for consideration. Therefore, whilst a plan has been submitted suggesting how the proposed dwellings could be accommodated on the site, this has been provided for indicative purposes only.
3. I have amended the description of the development stated on the appeal form and decision notice to remove reference to amended plans, as these are not a form of development.

Main Issues

4. The main issues are the effect of the proposed development upon (i) the character and appearance of the area and (ii) the living conditions of the occupiers of adjacent dwellings.

Reasons

Character and appearance

5. The appeal site consists of part of the substantially sized rear garden area of 43 Humberston Avenue. Within the immediate surroundings, there are other examples of dwellings having been constructed to the rear of the original dwellings that front onto Humberston Avenue, including in the rear garden areas of the adjacent dwellings. Whilst Abbots Grange takes the form of a more traditional cul-de-sac layout, the arrangement of the dwellings that share

the side boundary with the appeal site gives the appearance of two dwellings positioned behind a dwelling which fronts onto Humberston Avenue. Therefore, the character and appearance of the area in which the appeal site is located is formed to a great degree by the positioning of dwellings to the rear of those properties which face directly onto Humberston Avenue and by the layout of the dwellings on Abbots Grange.

6. The indicative plans submitted show that the proposed construction of two new dwellings on the appeal site would result in an arrangement that would be broadly consistent with the layout of the adjacent dwellings on Abbots Grange. The size of the resultant plots for both of the proposed dwellings and of the existing dwelling would also be generally consistent with those of the properties which are found on Abbots Grange. Whilst the backland development which has taken place to the rear of the dwellings to the other side boundary consist of only single new dwellings, nonetheless, the appeal proposal would not appear out of character within the area in which it is located, due primarily to the arrangement of dwellings on Abbots Grange.
7. For these reasons I conclude that the proposed development would not cause harm to the character and appearance of the area. Accordingly, the proposal would accord with Policy 5 of the North East Lincolnshire Local Plan 2018 (LP), where it seeks to safeguard the character and appearance of areas.

Living conditions

8. The indicative plans submitted suggest that the proposed dwellings could be positioned and designed so to minimise any impact on the existing dwellings adjacent to the appeal site. In particular, as bungalows and based on the roof structure shown on the indicative plans which show roofs pitching away from the common boundaries, I am satisfied that dwellings could be designed that would not have a harmful impact on outlook or cause an unacceptable loss of light.
9. Whilst 1b Abbots Grange has a number of windows facing the appeal site, for the reasons stated the dwelling proposed to be located closest to it could be of a scale and positioning that would not cause harm to the living conditions of the occupiers of this property, or to those of the dwelling to the other side boundary at 41a Humberston Avenue. The positioning of windows would be established at reserved matters stage, but again the dwellings could be designed so that no harm would arise from overlooking onto existing dwellings.
10. The proposal would result in an increase in movements along the side of the host dwelling and 41 Humberston Avenue, in addition to new movements to the rear of these dwellings. However, given the context and the positioning of a number of dwellings in rear garden areas and the wider Abbots Grange development, together with the fact that there would be movements associated with only two new dwellings, there would not be harm to living conditions from the movements of vehicles. Any noise generated by the use of the proposed dwellings by their occupiers would be domestic in nature and would not be inappropriate in a residential area.
11. The indicative plans demonstrate that both the size of the dwellings proposed and their garden areas would be adequate to provide acceptable living conditions for their future occupiers.

12. For these reasons I conclude that the proposed development would not cause harm to the living conditions of the occupiers of the existing adjacent dwellings. Accordingly, the proposal would accord with Policy 5 of the LP, where it seeks to protect living conditions.

Other Matters

13. My attention has been drawn to an appeal decision at 87 Humberston Avenue (APP/B2002/W/17/3187041) and a copy of that appeal decision has been provided. However, I do not have specific details of the circumstances of that particular case and it related to three new dwellings and not two. It has also been suggested that development which has taken place to the rear of both 69 and 71 Humberston Avenue consists only of one dwelling and that this should be considered to be a more appropriate form of development for the area. However, I am required to determine this appeal primarily on its own merits, based upon the proposal that is before me and the context in which the proposed development would be located. This therefore is the approach I have taken.
14. Reference has been made to flooding on the appeal site and the impact upon existing drains, but I have not been provided with any evidence that the site is susceptible to flooding or that adequate drainage could not be provided as part of the proposed development. Furthermore, the Council's Drainage Officer does not raise an objection to the proposal, and further details of drainage can be secured by way of a planning condition.
15. There is no evidence before me to suggest that the proposed development would have a harmful impact on the efficiency of the broadband network in the area. Likewise, the site consists predominantly of mown grass and there is no evidence to suggest that ecological interests would be harmed as a result of the proposed development.
16. The Council considers that the protection of the trees of merit on and adjacent to the site, including those subject to a Tree Preservation Order, could be secured via the details submitted at reserved matters stage and by way of the submission of an up-to-date tree protection plan, and I concur that this would satisfactorily address this matter.
17. Whilst layout is a reserved matter, the indicative plans that have been provided show that adequate parking provision could be achieved on the site. In the event of an emergency, the proposed access would allow for vehicles to attend the proposed dwellings. The increase in traffic movements associated with two new dwellings would not have a material impact on the efficiency of the highway network or on highway safety in the vicinity of the site or within the wider surrounding area.
18. It has been suggested that the Council has met its housing targets and therefore it is questioned whether further dwellings are needed. I have no information before me in relation to housing supply, but irrespective of the position this does not preclude the granting of permission for further new dwellings.

Conditions

19. Conditions relating to the submission of the reserved matters, the relevant time period for submitting these and for carrying out the development, and a

condition confirming the approved plans, are necessary to provide certainty. Given that there are established trees on and adjacent to the site, some of which are protected, a condition requiring that an up-to-date tree protection plan be submitted is also necessary.

20. A drainage condition is necessary to ensure that the development meets the required standards and a condition requiring that a construction management plan be submitted is required to protect the living conditions of the occupiers of the adjacent dwellings during the construction period and to ensure that the efficiency of the highway network is not compromised during that time. A condition relating to water re-use and recycling is necessary to meet the requirements of Policy 34 of the LP.
21. The Council has suggested a separate condition requiring details of the housing mix be submitted, however this will be evident from the details provided at reserved matters stage and therefore an additional condition is not necessary. A condition relating to the layout of the access driveway and parking areas is also not necessary as such details would be provided at reserved matter stage.

Conclusion

22. For the reasons given above I conclude that the appeal should, subject to conditions, be allowed.

Graham Wraight

INSPECTOR

Schedule of Conditions

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The reserved matter of landscaping shall include an up-to-date tree protection plan.
- 5) The development hereby permitted shall be carried out in accordance with the following approved plans: RD:4430-01 and RD:4430-03 Revision D (where it refers to the matter of access only).
- 6) No development shall commence until a scheme for the sustainable provision of surface water drainage (following infiltration tests) and a scheme for foul drainage has been submitted to and approved in writing by the local planning authority. There must be no raising of the existing ground levels. The development shall then be built out in accordance with the approved details and the drainage implemented prior to occupation of any dwelling.

7) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:

- Contact details of the person with responsibility for the implementation of the Construction Method Statement;
- The expected number, types and size of vehicles during the entire construction period;
- The proposed daily hours of operation during the construction period;
- Details of on-site parking provision for construction related vehicles;
- Details of on-site storage areas for materials, if required;
- Details of expected delivery schedules and how this will be managed to eliminate waiting on the public highway (i.e. call ahead or pre-booking scheduling system), if required;
- Details of wheel washing facilities (locations, types etc.); and
- Measures to control the emission of noise and dust during construction

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

8) Prior to the first occupation of any of the dwellings hereby permitted, details of how water will be reused and recycled on site shall be submitted to and approved in writing by the local planning authority. Once approved, the details shall be adhered to at all times following the first occupation of any dwelling.



Appeal Decision

Site Visit made on 21 December 2020

by **Graham Wraight BA(Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 12 January 2021

Appeal Ref: APP/B2002/W/20/3258923

9 Dene Road, Grimsby, DN32 0AL

- 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 Colin Goodwin against the decision of North East Lincolnshire Council.
 - The application Ref DM/0662/19/FUL, dated 19 July 2019, was refused by notice dated 7 August 2020.
 - The development proposed is to erect a detached dwelling and 2 integral garages (serving proposed dwelling and 9 Dene Road) with associated works including installation of photovoltaic panels, rooflights, erection of 1.8m high fence and 1.9m high wall.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are (i) whether adequate outdoor amenity space would be provided for the occupiers of 9 Dene Road and (ii) the impact of the proposed development on the living conditions of the occupiers of the adjacent dwellings.

Reasons

Outdoor amenity space

3. The appeal site is physically separated from 9 Dene Road by a fence, and it is in an overgrown condition. Representations made by the appellant suggest that it has at various points been associated with properties other than No 9 and that it is held in a different title. No substantive evidence has however been provided to demonstrate the previous associations to which the appellant refers or to show the extent of land which was originally associated with No 9 when it was constructed. The plans submitted show that the appeal site edged in red is in the same ownership as No 9.
4. The proposed development would include provision for a single garage for No 9 and a hard-surfaced parking area. However, other than this there would only be a very limited area remaining to the rear of No 9 and this is currently hard surfaced. As such, the occupiers of this property would not have access to a useable area of outdoor amenity space which could be considered to be reasonably proportionate to the size of the dwelling, given that the areas to the rear and side of the property do not lend themselves to such a use due to their size and prominent positioning in the street scene.

5. Whilst I acknowledge that the appeal site is currently partitioned from No 9, based on the limited information I can draw from the existing site plan and the Design & Access Statement, it appears that it was most recently associated with No 9 and therefore could have provided outdoor amenity space for this dwelling. As both the dwelling and the appeal site remain in the same ownership, there is potential for a greater area of outdoor amenity space to be provided for No 9 as part of the proposed development. This is necessary to provide adequate amenity space for the occupiers of No 9.
6. The appellant considers that the outdoor area associated with No 9 would remain at a size that would be similar to other properties on Dene Road. However, the plan that has been submitted with the appeal to demonstrate this includes both the proposed garage and parking area that would be provided for No 9, and not an area that could reasonably be used as outdoor amenity space.
7. The appellant also points to the fact that the policies of the North East Lincolnshire Local Plan 2018 (LP) which have been identified do not specify a minimum area for the garden of a property. This being the case, I must exercise my judgement based upon the information that is before me and my own observations during my site visit.
8. For these reasons, I conclude that adequate outdoor amenity space would not be provided for the occupiers of 9 Dene Road and that consequently without this the proposal fails to accord with Policies 5 and 22 of the LP, where they seek to achieve good design in new developments and to ensure that they are of a suitable size and scale.

Living conditions

9. The proposed dwelling has been designed with consideration to the constraints of the site in which it would sit. Its highest section is positioned away from the common boundaries with 5 and 6 Weelsby Grove and its roof would also pitch away. These factors, in conjunction with the physical separation which would be achieved to these adjacent dwellings themselves, would ensure that there would be no harm to the living conditions of their occupiers through a loss of outlook and light or as a result of the proposed massing of the dwelling.
10. A lower section of the proposed dwelling would run along the common boundaries with the dwellings on Weelsby Avenue. These adjacent dwellings have long rear gardens and the proposal would not, by reason of its height and its roof which would again pitch away from the boundary, cause harm to their living conditions through a loss of outlook and light or due to its massing. The design and positioning of the proposed dwelling would also ensure that it would cause no harm to the living conditions of the occupiers of 8 or 9 Dene Road in these respects.
11. There would only be first floor windows on the front gable of the proposed dwelling. However due to their positioning and orientation in relation to the adjacent dwellings, together with their narrow design, they would allow only oblique views onto them. This would not result in harm to the living conditions of their occupiers from overlooking. A number of roof lights are proposed, however where these serve first floor accommodation they would be sited at a level where they would not allow harmful overlooking to arise onto the adjacent dwellings. Accordingly, there would be no loss of privacy with respect to adjacent dwellings.

12. For these reasons, I conclude that there would be no harm to the living conditions of the occupiers of the adjacent dwellings as a result of the proposed development. Therefore, there would be no conflict with Policy 5 of the LP where it seeks to ensure that new developments are of a suitable size and scale.

Other Matters

13. I acknowledge that no objections were made to the proposal from consultees or neighbours, however this does not justify a harmful development. I also note that the appellant has engaged in discussions with the Council during a previous withdrawn planning application and through pre-application discussions. I must however assess the merits of the scheme on the basis of the proposal that is before me.

Conclusion

14. Although I find that there would not be harm to the living conditions of the occupiers of the adjacent dwellings, the proposal would fail to provide adequate outdoor amenity space for the occupiers of 9 Dene Road and this would cause a conflict with the development plan. Therefore, I conclude that the appeal should be dismissed.

Graham Wraight

INSPECTOR



Appeal Decision

Site Visit made on 21 December 2020

by Graham Wraight BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 January 2021

Appeal Ref: APP/B2002/W/20/3258040

59 Cheapside, Waltham, Grimsby, DN37 0HE

- 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 Glover against the decision of North East Lincolnshire Council.
 - The application Ref DM/0759/19/FUL, dated 12 July 2019, was refused by notice dated 23 July 2020.
 - The development proposed is to erect a residential development of three bungalows with associated access and boundary treatments - Resubmission of DM/0735/17/FUL.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on (i) living conditions, with particular reference to overlooking and outlook and (ii) the Buck Beck and the risk of flooding.

Reasons

Living conditions

3. The window to bedroom 2 of the proposed dwelling on plot 1 would face towards the private rear garden area of the adjacent dwelling, 53 Cheapside, and would be in close proximity to the common boundary, thus allowing unrestricted and intrusive overlooking to occur and resulting in harm to the living conditions of its occupiers.
4. Whilst the appellant has indicated that the window in question could be obscurely glazed, this would be a poor design solution on a newly built dwelling to serve a room such as a bedroom where future occupiers could expect a reasonable outlook. Furthermore, when open, the window would still allow for unrestricted and intrusive views over the garden of the neighbouring property. Fixing the lower section of the window to prevent it from opening would address this overlooking concern but would further worsen the living conditions for the occupiers of this proposed dwelling. In this respect therefore the proposal would fail to provide acceptable living conditions for the future occupiers of the dwelling on plot 1.
5. I acknowledge that the proposal was recommended for approval by the Council's Planning Officers and that in the Committee Report it was considered

that the obscure glazing of the bedroom window of plot 1 below a height of 1.7 metres from room floor level would be acceptable to overcome the overlooking issues that would arise. However, in my judgement this would not be a satisfactory arrangement, for the reasons that I have outlined.

6. The distances proposed between the new dwellings and all of the site boundaries, and the existing dwellings beyond them, would be adequate to ensure that no harmful overlooking would occur, even noting that the appeal site is located on a higher ground level than the existing dwellings on Cheesemans Close. Furthermore, the distances of the proposed dwellings from the nearest dwellings together with their proposed height would ensure that they would not have a harmful impact on the outlook of the occupiers of the adjacent existing dwellings.
7. Previous planning permissions on the appeal site have carried a planning condition restricting the use of upper floors for living accommodation. However, this does not preclude the appellant from subsequently submitting an alternative proposal for consideration. In determining this appeal, I must have regard to the proposal that is before me and make my assessment upon its own individual merits.
8. For these reasons, I conclude that the proposed positioning of the window to bedroom 2 of the dwelling on plot 1 would cause unrestricted and intrusive overlooking onto the rear garden area of the adjacent dwelling, resulting in harm to the living conditions of the occupiers of that dwelling. This could not be reasonably overcome in a manner that would not in turn cause harm to the living conditions of the future occupiers of this proposed dwelling. Whilst I do not find that any other harm to living conditions would arise, this harm alone means that the proposal would not accord with Policy 5 of the North East Lincolnshire Local Plan 2018 (LP), where it seeks to protect living conditions.

Impact on the Buck Beck and flooding

9. The planning application was accompanied by a number of technical reports, including in relation to drainage calculations and how a section of the beck would be reinforced. The consultation response from the Senior Drainage Engineer and Drainage Engineer is clear that this would result in a discharge rate lower than the greenfield run-off rate and that the proposed point of discharge into the Buck Beck is not deemed to create a detrimental impact on the integrity of the beck or the flow rates within it. They consider therefore that the proposal would not increase the risk of flooding either on or off the site.
10. Furthermore, they have considered the proposed works to the section of the beck, noting its intention to ensure that the proposal would not harm the structural integrity of the bank and that the proposed method of reinforcement is similar to that used on another site. They also note that the Buck Beck flows in a relatively straight line in the area where the works would take place and therefore is not in an area of high risk of erosion. Finally, they consider that the design of the foundations could be controlled by way of a planning condition, and they raise no concern that foundations could not be designed that would be acceptable given the constraints of the appeal site.

11. With respect to the 6 metre easement that is referenced, they also confirm that this relates to access to the beck for machinery, and that this figure does not relate to the potential impacts on the structural integrity of the watercourse. Their comments on the technical documents and their conclusions on the impact that would arise upon the Buck Beck and flood risk carry significant weight.
12. The appellant states that the proposed works to the bank of the beck would have a lifespan of 75 years. This, coupled with the comments of the Senior Drainage Engineer and Drainage Engineer regarding the current condition of the similar solution which has been used on another site and which has been in situ for around 10 years, offers a reasonable level of certainty that the proposed works would provide an appropriate long-term approach. Interested parties have raised concern that the remaining trees which line the beck could be removed, but I have nothing before me to suggest that this would be the case.
13. I have had regard to the Inspectors findings set out in the decision for the previous appeal (APP/B2002/W/18/3195839) and to the information I have which suggests that further details have now been provided to address the reasons why the previous appeal was dismissed. In any event, I must determine the current appeal primarily upon its own merits and I have set out that the technical information before me, in conjunction with its review by the drainage engineers, is persuasive that there would not be harm to the Buck Beck or from the risk of flooding. As there is no substantive evidence before me to counter this, I conclude that there would not be harm caused in this respect by the proposed development.
14. Reference has been made in a number of representations from interested parties as to instances of flooding that have previously occurred in Waltham. However, the matter before me relates to the impact that the proposed development would have, and I must determine the appeal on that basis.
15. For these reasons, I conclude that the proposed development would not harm the Buck Beck or increase the risk of flooding on or off the site. Therefore, the proposal would accord with Policies 5 and 33 of the LP, where they refer to flood risk.

Conclusion

16. I have found that the proposal would not cause harm to the Buck Beck or from flooding, nor would there be harm to living conditions in most respects. However, the proposed arrangements for bedroom 2 of the proposed dwelling on plot 1 would be unsatisfactory for the reasons I have outlined. This would result in a failure to provide acceptable living conditions for the occupiers of this dwelling and a subsequent conflict with the development plan. Therefore, the appeal should be dismissed.

Graham Wraight

INSPECTOR