

DEVELOPMENT MANAGEMENT**APPEALS LIST - 17TH FEBRUARY 2022**

APPLICATION NUMBER & SITE ADDRESS	APPEAL REFERENCE & STATUS	OFFICER & PROCEDURE
DM/0821/20/FUL College House 87 College Street Cleethorpes North East Lincolnshire DN35 8BN	AP/001/22 INPROG	Jonathan Cadd Written Representation
DM/0650/21/FUL 184 Waltham Road Grimsby North East Lincolnshire DN33 2PZ	AP/002/22 INPROG	Owen Toop Written Representation



Appeal Decision

Site visit made on 1 February 2022

by **R Hitchcock BSc(Hons) DipCD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 08 February 2022

Appeal Ref: APP/B2002/D/21/3284982

18 Lytham Drive, Waltham, Grimsby DN37 0DG

- 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 David Blair against the decision of North East Lincolnshire Council.
 - The application Ref DM/0617/21/FUL, dated 17 June 2021, was refused by notice dated 12 August 2021.
 - The development proposed is a front extension, single store (sic) side extension with new dormer.
-

Decision

1. The appeal is allowed and planning permission is granted to erect extension to front to include first floor rooms in roof space, erect single storey side extension and installation of a dormer to side at 18 Lytham Drive, Grimsby DN37 0DG in accordance with the terms of application Ref DM/0617/21/FUL, dated 17 June 2021, subject to the following 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 subject to the requirements of the additional conditions of this permission: SK101, SK104 Rev D, SK105 Rev J, SK108 Rev A and SK109.
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
 - 4) The window to be created in the first-floor side elevations of the dormer to serve the bathroom hereby approved shall be glazed in obscure glass only to an obscurity level of 3 or above as measured on the 'Pilkington Scale' and shall be non-opening below a height of 1.7 metres measured from the internal finished floor level. The windows shall not thereafter be altered in any way without the prior written approval of the Local Planning Authority.

Preliminary Matters

2. The description in the banner heading above is taken from the planning application form. The Council have used the alternative description of 'erect extension to front to include first floor rooms in roof space, erect single storey store to side, convert existing roof space and installation dormer to side with various alterations (Amended plans to revise dormer material from timber cladding to hanging tiles and include timber cladding to front gable end)'. I

have used the above description in my decision as a more accurate reflection of the proposed development. However, I have removed superfluous elements. It does not change the development for which planning permission was sought and on which relevant parties were consulted.

3. During the course of the Council's consideration of the planning application amended plans were provided by the appellant. These altered some proposed external materials and the location of a bedroom window. These were the plans on which the Council made its decision. I have proceeded on the same basis.
4. The officer recommendation to the North East Lincolnshire Planning Committee was that conditional planning permission should be granted for the proposed development. The committee duly considered the proposal and refused planning permission. In addition to the Council's Decision Notice, I have had regard to the committee meeting minutes to inform the main issues.

Main Issues

5. The main issues are the effect of the proposed development on the character and appearance of the locality and the living conditions of neighbouring residents at 19 Lytham Drive with particular regard to light and outlook.

Reasons

Character and appearance

6. The site lies close to a turning loop at the head of a residential cul-de-sac of detached bungalows. The dwellings are set behind enclosed front gardens with private amenity spaces to the rear. The buildings in the road are regularly spaced by side driveways and consist of a limited number of designs with similar overall heights and a restrained palette of external materials. Despite some alterations and extensions, this results in a strong identity and consistent character to the locality which creates a positive sense of place.
7. The proposals include a front extension of the main building which would continue the existing eaves and ridge line to a point slightly forward of a side garage attached to 19 Lytham Drive. The front elevation would contain 3 window openings and cladding to the gable above the ground floor level. A dormer roof extension is proposed on the western roof slope with an obscure-glazed window to the main face and a forward-facing window in the front cheek. Additionally, a flat-roofed side extension to the eastern side of the building on part of a side driveway is proposed. This would adjoin an existing flat-roofed element located to the side and rear of the main accommodation and extend forward to an alignment close to the front elevation of the neighbouring property at 17 Lytham Drive.
8. The building is located at the start of the turning loop such that it is staggered between the neighbouring bungalows. In comparison to other plots on the Drive, the building is set a significant distance back from the highway. The proposed front extension would bring the forward elevation in a consistent diagonal alignment between the neighbouring buildings at Nos 17 and 19. This would ensure that it would not appear unduly prominent in the existing layout of development about the turning loop.
9. However, the scale of the dormer extension, which would cover a large part of the roof slope between the ridge and eaves lines, would appear cumbersome.

The large scale and prominent forward face of the front cheek would contrast with other examples of dormer extensions on the street. These benefit from more modest dimensions and are either set down from the ridge or up from the eaves, or both, to create less imposing, subordinate forms of extension that are more commensurate with the scale of the buildings.

10. The height and alignment of the dormer close to the roof verge and the position alongside the gabled roof of the neighbouring garage, would substantially close the characteristic gapping between the buildings on the street. The large box appearance would contrast significantly with the predominant gabled and hipped roof forms. This would appear prominent against the characteristic forms, spacing and scale of development in the road.
11. In support of the proposal the appellant has referred me to examples of other large dormers that are present behind the site at 8 and 9 Elsham Drive. However, these are located on the rear roof slopes of those buildings which lie parallel to the turning circle of that cul-de-sac. Furthermore, those properties enjoy greater spacing such that the effect on the Elsham Drive street scene is limited. An example of a front dormer elsewhere on Elsham Drive is more limited in scale and set up from the eaves line, as other examples are. They are not therefore compelling reasons to support a development that would cause harm in the Lytham Drive street scene.
12. The submitted plans and planning application form indicate that the external walls would be finished in render. However, a render finish would contrast starkly with the characteristic facing materials consistently used in the road. Whilst I acknowledge that there are variations between the colour of brickwork and tiles on the drive, and that some examples of render panels and individual properties finished in render exist elsewhere, the use of render would cause the building to be conspicuous by its contrasting appearance. However, consistent with Paragraph 54 of the National Planning Policy Framework (the Framework), a condition requiring matching external finishes could be imposed to address that concern.
13. The single-storey side extension would be set back from the proposed position of the front elevation. Taken with the withdrawn position of the dwelling behind the main building line and the low overall height of the extension, it would appear recessive and subordinate in the Lytham Drive street scene.
14. Notwithstanding my findings in respect of the front extension, side extension and proposed external materials, these matters do not outweigh the significant harm that would arise to the character and appearance of the locality and the Lytham Drive street scene caused by the scale and appearance of the proposed dormer extension. Accordingly, I find the dormer extension would conflict with Policies 5 and 22 of the LP as it requires high standards of design which are informed by the particular built characteristics of the site's context and with regard to its effects on visual intrusion.

Living conditions

15. The proposed position of the dormer would lie a short distance from the common boundary with No19. About half of its length would lie behind the rear elevation of the neighbour's garage where a lean-to canopy with a translucent roof has been erected over part of a rear patio area. The dormer would cause some overshadowing in summer months once the sun has broken over the

ridgeline of the appeal building. However, this would be for a limited mid-morning period only and merely affect a small part of the rear garden area of No19. It would not, therefore, cause significant harm to the living conditions of those occupiers through overshadowing.

16. However, the tall vertical face of the dormer and close proximity to the common boundary with No19 would cause it to be a dominant feature in the outward views. This would be from both within the neighbouring garden area and a conservatory to the rear of the dwelling. It would loom large over the nearest part of the garden and, in the context of an area substantially consisting of single storey development, would appear overbearing to the occupiers of the neighbouring property such that their living conditions would be adversely affected by the dormer.
17. The front extension would lengthen the building to a short distance beyond the front elevation of the neighbouring garage at No19. It would substantially overlap with a side-facing window serving a small habitable room in the adjacent property. The extension would be visible in the outlook from the neighbouring room; however, this would be limited to the upper part of the wall above the boundary fence and the roof pitching away.
18. Due to the intervening distance, sky views and views beyond the front face of the extension would still be available from within the neighbour's room. Accordingly, I find the effect on outlook would not be so great as to cause material harm to the living conditions of the neighbouring occupiers through poor outlook.
19. The position and orientation of the neighbour's side window is such that direct sunlight would mostly occur in the early morning before shadowing caused by the existing appeal building and a gabled roof to the neighbours' garage would prevent it. In the warmer months, when the sun is higher, some limited additional direct sunlight may reach the window later in the morning. I have little doubt that the proposed front extension would cause some additional loss of direct sunlight to the window. However, the periods of time during which that might occur would be very limited and such that any effect on living conditions would be minor. Furthermore, due to intervening distances, any effects on ambient daylight levels reaching the window would be negligible.
20. For the above reasons, whilst I find that the effects on sunlight and daylight of the proposals at the site and the outlook from a neighbouring window would not be material, the effects of the dormer on outlook at the rear of the property would cause significant harm to the living conditions of neighbouring occupiers. It would thereby conflict with Policy 5 of the LP as it requires regard be had to the effect on neighbouring land uses including by reason of visual intrusion.

Other Matters

21. In support of the dormer, the appellant refers to the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO). This is a matter that was acknowledged by the Council Members and officer. Although the exact dormer proposal was considered to lie beyond the scope of the GPDO provisions on account of the clear glazing of the front window and a potential discrepancy of 100mm from the position of the existing eaves line, there is little to suggest that a very similar development could not be completed without recourse to a planning application.

22. The appellant highlights that the proposal seeks to improve the wellbeing of 3 young children and enhance the quality of life of the family as a whole. Accordingly, I have little doubt that pursuant to my finding that the dormer is the only contentious element of the proposals, the appellant would exercise his right to implement a similar development under the terms of the GPDO. I am also mindful that this could be designed and/or positioned in a manner which would exacerbate the identified effects on outlook and/or the street scene.
23. I also note the other matters of concern raised by Council Members and third parties, and a letter of support for the proposals. A side-facing window in the dormer extension is proposed utilising obscure glazing to protect the neighbours' privacy. This could be secured through a planning condition. Other windows are positioned to address the front garden area of the property and would be at distances from nearby residential buildings typical of an estate setting such that no undue loss of privacy would arise from them.
24. The scheme would retain provision for off-road parking in a manner similar to other existing properties. This would limit pressure for on-street parking. Although no new landscaping is proposed as part of the scheme, the existing site benefits from landscaped gardens front and rear.

Planning Balance

25. I have found that the dormer element of the proposals would result in an overbearing form of development and appear incongruous in the Lytham Drive street scene. It would conflict with Policies 5 and 22 of the LP. However, it is a well-established principle that the provisions of the GPDO may provide a fallback position. I have also found that there is a real prospect of a development under the GPDO taking place and that it would lead to a similar or potentially worse outcome. I therefore find that a strong justification in the context of Paragraph 38(6) of the Planning and Compulsory Purchase Act 2004 exists and provides clear justification for departing from the development plan in the particular circumstances of the case.

Conditions

26. I have considered the suggested conditions from the Council and had regard to Paragraph 56 of the Framework and the National Planning Practice Guidance in terms of the use of planning conditions. In addition to the standard condition limiting the lifespan of the planning permission, I have imposed a condition specifying the relevant drawings as this provides certainty.
27. A condition specifying materials to match the existing building is necessary to protect the character and appearance of locality. To protect the privacy of neighbouring residents, a condition requiring obscure glazing to the side-facing window of the dormer is necessary and reasonable.

Conclusion

28. For the reasons above, the appeal should be allowed.

R Hitchcock INSPECTOR



Appeal Decision

Site visit made on 6 January 2022

by J P Longmuir BA(Hons) DipUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 February 2022

Appeal Ref: APP/B2002/W/21/3278465

Land off Grimsby Road, Waltham, Lincolnshire, DN37 0PT

- 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 Peter Strawson on behalf of Idyllic Estates Ltd against the decision of North East Lincolnshire Council.
 - The application Ref DM/0955/20/OUT, dated 9 November 2020, was refused by notice dated 8 January 2021.
 - The development proposed is a residential development of 17 number dwellings.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was submitted in outline with all matters reserved. A layout was submitted but has only been considered as indicative.
3. The e-mail of 17th January 2022 confirms that the Section 106 agreement covering primary and secondary school provision as well as affordable housing is at draft stage and unsigned. I therefore have considered the appeal on this basis.
4. The adjacent site was the subject of an appeal¹ dated as 17 August 2017 for residential development, which warrants consideration where relevant. The appeal site itself was the subject to an appeal² decision dated 4th November 2019 for 16 dwellings, which I have also given consideration.

Main Issues

5. The second reason for refusal concerns insufficient evidence on ecology. However, the Council's statement of case refers to their collaboration with the appellants and the submission of an updated ecological appraisal, which found that the site does not have notable value. Potential enhancement could be provided by new landscaping and details of specific habitat creation could be required by condition. The Council suggest that the ecological concern has now been remedied and I conclude similarly. The third reason for refusal refers to insufficient evidence on heritage and archaeology. The Council's statement of case notes a geophysical survey has been submitted which showed negligible

¹ APP/B2002/W/17/3171223

² APP/B2002/W/19/3225246

significance. I similarly conclude that in this respect the proposal would not be harmful.

6. The first reason for refusal refers to the impact on the visual character and appearance of the area. It also states that the proposed development represents an unsustainable form of development in the countryside. This implies that the location also needs to be considered in terms of its accessibility to everyday services and facilities. In addition, as the section 106 is unsigned, there is a need to consider the implications on the delivery of those aspects.
7. The main issues are:
 - the effect of the proposal on the character and appearance of the area;
 - whether the intended occupants would be in an accessible location for everyday local services and facilities without car dependency; and
 - whether the proposal would provide affordable housing and make contributions for education provision commensurate with the number of the likely new residents arising from the housing.

Reasons

Character and appearance

8. The appeal site lies just off Grimsby Road which provides a main through route. It also serves an extensive residential area to the west and opposite the appeal site. Off Grimsby Road, a newly constructed side road, Woodland Way, forms another side of the appeal site and also serves an area of new housing. The other sides of the appeal site border countryside and the eastern side has been planted with mixed species trees.
9. The appeal site itself is flat with sparse grass and with the exception of a boundary hedge and ditch along Grimsby Road, it is open and featureless. There are distant views towards trees on the skyline but otherwise the landscape character is not distinctive.
10. The hedge along Grimsby Road is deciduous and offers only limited screening and filtering of winter views into the appeal site. The previous Inspector, for the 2019 appeal, had the benefit of a September site visit and found that 'the existing hedge is tall and thick which would limit the prominence of the dwellings'. The Inspector does then remark on the winter aspect and the threat of its cutting back.
11. The proposed development would be seen in conjunction with twentieth century development on the other side of Grimsby Road and the new houses off Woodland Way. Nonetheless it would be a partial incursion into open countryside and would appear abrupt against the expansive landscape on the other two sides. In addition, the proposed houses would lead to the loss of openness of the site and obstruct the distant views.
12. The 2019 Inspector concludes that 'the open nature of the appeal site, and its physical and visual connection to the wider countryside, means that there would be an inevitable change to its character from its development for housing'. I find similarly, particularly as 17 houses are now proposed whereas the 2019 scheme was for 16.

13. Waltham is separated from the neighbouring edge of Grimsby by countryside, which the Council's statement quantifies as 400m. The North East Lincolnshire Local Plan (LP) identifies this as a strategic gap, which helps to preserve the identity of settlements and the dominance of the countryside. Whilst the appeal site contributes to this gap it is small compared to the size of the swath of fields which separate the settlements. Indeed, the houses along the west side of Grimsby Road are nearer towards the gap and the proposal would not protrude beyond this housing. Consequently, I find that the appeal proposal due to its extent and position would not harm the strategic gap.
14. The 2019 Inspector concluded that the impact would be localised and 'would intrude upon the appreciation of the open countryside and so would cause some limited harm to the character and appearance of the area'. I similarly conclude, although some of this impact could be ameliorated by planting. The indicative scheme shows a new landscape area to the north. The hedge along Grimsby Road could also be reinforced. Additionally, the recent landscaping adjacent to the appeal site shows that mixed species trees can flourish in this area.
15. Policy 5 of the LP requires development within or adjacent to settlement boundaries to have regard to the size, scale and density of the development and impact on the landscape. Development should recognise the open character of the landscape and the setting of independent settlements. Policy 22 requires good design and the protection and enhancement of natural assets. Policy 40 seeks to maintain and improve the network of green infrastructure, maintain the separate identity of settlements, retain the openness of land and control the scale of development. Paragraph 174 of the National Planning Policy Framework (the Framework) states planning decisions should recognise the intrinsic character and beauty of the countryside. The proposal would be harmful to the character and appearance of the landscape and so would be in conflict with these policies.

The access to local services and facilities

16. Policy 3 of the LP is the settlement hierarchy which aims to place and prioritise development where there is access to facilities and services. Waltham is recognised as a service centre, but the site is outside the settlement boundary. The policy states: future development would involve development principally of greenfield sites adjacent to but within the defined settlement development area boundary. Policy 4 of the LP provides the distribution of housing growth, whereby Waltham is identified as one of several local service centres, wherein in combination between 30-35% of new homes will be constructed in and on the fringes of the arc settlements. Policy 13 allocates sites for development elsewhere in Waltham. However, the site lies outside the settlement boundary of Waltham.
17. There is a shop for everyday essentials on Fairway, which is just beyond the other side of Grimsby Road, approximately 200m from the appeal site. The indicative layout suggests a footpath across the appeal site which would provide a conducive link. There are also bus stops on Grimsby Road opposite the site.
18. The appeal site is close to Waltham and linked by pedestrian pavements with streetlights, which would allow easy and pleasant walking. Waltham has a range of shops and services for everyday needs.

19. The previous Inspector acknowledged 'in locational terms, the proposal would be relatively accessible to a good number of local services, which could be reached by public transport and reduce reliance on private motor vehicle'.
20. I therefore conclude that the appeal site would be accessible to essential facilities without dependency upon private transport.
21. Policy 5 of the LP requires development within or outside defined boundaries to consider the provision of services. Against this particular wording, I find that the principle of residential development, being in an accessible location, would not be harmful or in conflict with policy 5, notwithstanding the conflict with policies 3, 4 and 13 due to the settlement boundary.

Affordable housing and contributions for education provision

22. The appellant's e-mail of 17 January 2022 states the Section 106³ agreement is draft and unsigned. Whilst this indicates an intention, it does not offer a guarantee of the delivery of its provisions. The Council's statement confirms that the proposal would need to provide £11,276.64 for primary education based on the estimated need from 4 dwellings, and £16,991.84 for secondary education derived from 5 dwellings.
23. Education payments are necessary to provide for expansion of facilities to cater for the pupils arising from the development. The number of dwellings would be significant in terms of pupil generation and increase pressure on existing facilities. Such financial contributions would not be appropriate by condition and therefore would not be deliverable without a signed Section 106 agreement.
24. An affordable housing contribution is necessary to provide homes for those who are in substandard living conditions. LP Policy 18 requires 20% provision of a development for affordable housing.
25. Whilst affordable housing in theory can be the subject of conditions, no wording has been suggested and the intricacies of delivery can be cumbersome by condition. Indeed, the Council assumed delivery would be by a signed Section 106 agreement and their statement indicates a lack of discussion on the content of the mechanism. Moreover, the previous Inspector found the submitted agreement incomplete and unsigned and therefore gave it no weight. In that decision the deliverability of the affordable housing was particularly significant. I therefore conclude that the affordable housing delivery is uncertain.
26. LP Policy 6 requires contributions towards primary and secondary education provision. Policy 18 requires 20% provision of a development for affordable housing. Similarly, paragraph 57 of the Framework provides the tests for obligations: the education and affordable housing are necessary, directly related to the development and are fair and reasonably related in scale and kind to the development. Paragraph 34 of the Framework supports developer contributions for affordable housing and education. The proposal would be in conflict.

³ Planning appeals: procedural guide. Annexe A sets out the timescales for submission.

Other matters

27. The Council's statement comments about a heap of soil which has been formed on the appeal site. This is not part of the submitted appeal proposal and it is not therefore a matter for my consideration.

Planning balance

28. The Council confirms that at the time of determination it was meeting its 5 year housing land supply requirements. However subsequently its assessment at 1 April 2021 showed a drop to 4.2 years supply. Paragraph 11d of the Framework is therefore triggered as footnote 7 does not apply.

29. The Council's strategy is to provide housing on a spatial basis according to settlement hierarchy. The appeal site is classed as countryside, but Waltham is classed as a local centre with Grimsby and Cleethorpes forming an 'arc' of settlements. Policy 4 allows development in and on the fringes of the settlements but within the settlement boundaries. Whilst I found conflict with the Development Plan overall, particularly as the site was not within a settlement boundary, the site is in an accessible location which was one of the factors forming the strategy.

30. The inadequate housing supply questions the housing strategy and in particular the over reliance of development within the designated settlement boundaries. The housing supply shortfall is significant, and I have not been made aware of any prospect of the situation improving. Indeed, as the Local Plan was adopted in 2018, the situation may well get worse as the Plan ages.

31. There is a need to look beyond the settlement boundaries for new housing. As the appeal site is in a location where it is well served by facilities, the occupants would not be car dependent. The 17 houses would be a significant contribution to housing land supply and contribute to the economy.

32. However, as I found earlier the proposal would lead to an adverse impact on the landscape. This would be a limited impact, potentially easing when the landscaping begins to flourish, albeit depending upon its details.

33. In addition, the proposal has failed to make provision for the expansion of education facilities and the new households would create more demand and pressures on the existing infrastructure. The most robust means for delivering affordable housing has also not been provided.

34. Paragraph 8 of the Framework provides the three overarching objectives of the planning system: economic, social and environmental. The proposal would provide 17 houses which would have economic benefits from their construction. Additionally, there would be an economic benefit as the occupants would support local services. However, the lack of delivery for affordable housing and education provision would mean that the social benefits of the proposal have not been realised and the proposal would put undue harm on existing facilities. In terms of the environmental objective the proposal would lead to limited landscape harm albeit potentially easing with landscaping.

35. In the light of the above, I therefore conclude that the adverse impacts of the proposal would significantly outweigh the benefits when assessed against the policies in the Framework taken as a whole.

Conclusion

36. I therefore conclude that the appeal should be dismissed.

John Longmuir

INSPECTOR



Appeal Decision

Site visit made on 5 January 2022

by Darren Hendley BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 January 2022

Appeal Ref: APP/B2002/W/21/3281244

Rear of 164 Yarborough Road, Grimsby, North East Lincolnshire DN34 4DN

- 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 Kevin Langley against the decision of North East Lincolnshire Council.
 - The application Ref: DM/0298/21/FUL, dated 16 March 2021, was refused by notice dated 11 June 2021.
 - The development proposed is the demolition of the existing commercial stores and the erection of a two storey dwelling.
-

Decision

1. The appeal is allowed and planning permission is granted for the demolition of the existing commercial stores and the erection of a two storey dwelling at the rear of 164 Yarborough Road, Grimsby, North East Lincolnshire DN34 4DN in accordance with the terms of the application, Ref: DM/0298/21/FUL, dated 16 March 2021, subject to the conditions in the attached schedule.

Procedural Matter

2. The revised National Planning Policy Framework (Framework) was published after the Council made its decision but prior to the appeal being submitted. The main parties have thus had the opportunity to comment on this document during the course of the usual appeal timetable. The Council has made reference to the Framework in its submissions. I have considered it in my decision.

Main Issues

3. The main issues are (i) whether the proposal would provide suitable living conditions for its future occupiers by way of outlook, light and outdoor private amenity space provision; (ii) the effect on the living conditions of the occupiers of neighbouring properties, in particular 164 and 162 Yarborough Road and 22 Elder Road by way of visual impact, outlook and privacy; (iii) the effect on the character and appearance of the area; and (iv) the effect on the amenity value of trees.

Reasons

Living Conditions – Future Occupiers

4. The part of the appeal site where the proposed dwelling would be located comprises single storey outbuildings that are somewhat dilapidated in their appearance. They are used for storage and are separated from 164 Yarborough Road (No 164) by a small, grassed area. This property is used as a fish and chip shop, with a flat above. There is off-street car parking to the front. The appeal site also has a small frontage onto an alleyway to the east, which connects Yarborough Road with Elder Road.
5. Where the proposed dwelling would be located would be fairly confined due to the proportions of the site. The resultant design has sought to restrict the use of windows or utilise higher level windows in order to reduce the potential for overlooking of neighbouring properties. This would have the effect of especially the lounge area of the proposed dwelling having a limited outlook and receiving a modest level of light. The main bedroom would also receive limited outlook and light as it would largely utilise high level windows, albeit a secondary window would be positioned at a more typical level in the access area leading to the main part of this bedroom.
6. Outdoor space provision would comprise of a narrow area that extends around two elevations, as well as an area that would extend up to the frontage with the alleyway. Whilst neither area is of any great size and there is limited detail of how these areas would be laid out, when considered together, the provision would not be unacceptable for a 3 bedroom dwelling, including for family use.
7. Overall, I conclude that the proposal would not provide a suitable living environment for its future occupiers by way of light and outlook, although not outdoor private amenity space provision. As I have found some adverse effect, it cannot be said that a level of harm would not arise. In this regard, the proposal would not comply with Policies 5 and 22 of the Council's North East Lincolnshire Local Plan 2013 to 2032 (2018) (NELLP) in as far as they are concerned with the living environment for future occupiers through suitability and a high standard of sustainable design.

Living Conditions - Existing

8. No 164 would be separated from the proposed dwelling by the grassed area and the proposed narrow outdoor space along this side of the new dwelling. The associated flat has windows that would face towards the dwelling. With the separation that would be provided, this would not amount to an unacceptable level of visual impact or loss of outlook. Undue overlooking would not occur as the facing windows on the proposed dwelling would be largely at a high level.
9. The private outdoor amenity area for 162 Yarborough Road (No 162) abuts the site boundary. Whilst the proposed dwelling would be sited not a great distance off this boundary, this would be towards the far end of this area and away from No 162 itself. The level of visual impact and effect on the outlook from No 162's private outdoor amenity area would not be unacceptable. A first floor window related to the proposed main bedroom would face towards this boundary, but as this would be the secondary window the level of overlooking that would occur would also not be untoward.

10. 22 Elder Road (No 22) lies to the rear of the site. Its side elevation is well set off the shared boundary. In between, there is an enclosed private outdoor amenity area. The proposed dwelling would be sited towards the front of No 22 and so much of the side boundary of this property would not be enclosed by the new dwelling. The level of visual impact and the effect on the outlook from this private outdoor amenity area would not be unacceptable. Where there would be a proposed first floor window facing towards the boundary with No 22, it would be set back and partially screened by a rear projection on the proposed dwelling. Accordingly, the level of overlooking would also not be unacceptable.
11. The Council's submissions have also referred to 24 Elder Road and 160 Yarborough Road. As both these properties are separated from the site by the alleyway and with the proposed dwelling being set back, the living conditions of these occupiers would also be adequately protected.
12. I conclude that the proposal would not have an unacceptable effect on the living conditions of the occupiers of neighbouring properties, in particular Nos 164 and 162 and No 22 by way of visual impact, outlook and privacy. In this regard, it would comply with Policies 5 and 22 where they are concerned with the impact upon neighbouring land uses by reason of visual intrusion, amongst other matters, and a high standard of sustainable design, including context.
13. The Council's Planning Officer report also refers to the proposal being contrary to Policy 17 of the NELLP, although this policy does not appear in the related reason for refusal. As I have found that the proposal would not be unsatisfactory on this issue, it follows that the density would also not be unacceptable in this respect.

Character and Appearance

14. The character of the part of the site where the proposed dwelling would be sited is largely determined by its location to the rear of the properties on Yarborough Road. These contain a variety of extensions, in particular to the rear of the shops, as well as outbuildings. This character is varied and unassuming.
15. There is a clear distinction from the development on Elder Road and beyond, which has a markedly different character because it is a modern housing development which is set out in a planned layout. Yet the character of this part of the site is also different from the more regular arrangement of semi-detached and terraced properties that face Yarborough Road itself, whether as part of this parade of shops or in the broader residential area. This difference in character results from this part of the site being located to the rear.
16. In the context of the rear of the properties on Yarborough Road, the somewhat utilitarian design of the proposed dwelling would not appear out of keeping. It would replace outbuildings which themselves add little to the area. That it would contain large expanses of brickwork, and limited fenestration and architectural features would not result in it being incompatible due to its location at the rear of these properties. Comparisons with the design of the Elder Road development are of limited value due to the difference in character, notwithstanding that No 22 itself presents a large expanse of brickwork towards the site.

17. Nor would the proposed dwelling be seen to dominate the plot because it would be set back from the alleyway. It would be forward of No 22 but it would be considerably less close to the alleyway than the side of No 162. Adequate spacing would also be maintained with both No 162 and No 22. Hence, its positioning would not increase its visual impact so as to detract from the streetscene.
18. With regard to if the design has been constrained by the plot and whether or not the proposal would constitute overdevelopment, what is of more relevance is the underlying issue, namely whether the site can accommodate the proposed dwelling by virtue of the design. In this case, this is adequately achieved given what is proposed, its location and when considering what is on the site at present.
19. I conclude that the proposal would not have an unacceptable effect on the character and appearance of the area. As a result, it would comply in this regard with Policies 5 and 22 where they are concerned with the suitability of development having regard to the size, scale, and density of the proposed development, and a high standard of sustainable design through a consideration of the particular site's context, amongst other considerations.

Trees

20. There are a small number of trees that lie in close proximity to the site boundary. Whilst they provide somewhat of a natural backdrop to the alleyway, they are well set back and so their broader amenity value is of a limited nature. Based on the evidence before me, they are not the subject of a Tree Preservation Order.
21. There is no indication that the trees would have to be removed in order to accommodate the proposal. Where branches may overhang the boundary, they would simply be removed. In relation to the protection of root areas, the appellant has stated that root barriers would be part of the foundation requirements. Tree Protection is a matter which can be addressed satisfactorily through the imposition of a planning condition. This would provide sufficient assurance to prevent damage or loss, so that the proposal can proceed without detriment to the health of the trees.
22. I conclude that the proposal would not have an unacceptable effect on the amenity value of trees. Consequently, it would comply in this regard with Policy 5 in so far as the trees have some value worthy of protection under this policy. It would also comply with Policy 42 of the NELLP where it states that developers should retain and protect trees which offer value for amenity, amongst other considerations.

Planning Balance

23. The proposal would make use of previously developed land to provide an additional dwelling to assist in meeting North Lincolnshire's housing needs. It would also make more efficient use of the site than the current outbuildings. The location is highly accessible as regards local services. The appellant has also set out some measures in relation to energy efficiency. These matters attract moderate weight in favour of the proposal.
24. Set against the benefits would be the harm that would result from the proposal not providing a suitable living environment for its future occupiers, by way of

light and outlook. However, this level of harm would be limited and so would the conflict with Policies 5 and 22 in this regard.

25. The provision of water butts is a neutral matter given that the Council has pointed to limited sewer capacity in the area, and hence they would be needed. The Planning Officer report also refers to the potential loss of parking to the local centre, if the forecourt parking to No 164 is also utilised for the proposal. This loss would be of a minor nature and the proposal is in a location that lends itself to the use of modes of transport other than the car. This matter also attracts neutral weight.
26. Taking these matters together, the benefits that would arise would outweigh the harm. The proposal would also comply with the development plan as a whole. The level of conflict with Policies 5 and 22 would be limited, it would comply with these policies in all other aspects and there would not be a conflict with any other policy that I have been referred to. The proposal would also make a contribution to the delivery of new dwellings under the development plan. I also do not find conflict with the Framework, in overall terms.

Conditions

27. In addition to the timescale for implementation, I have imposed for the purposes of certainty a condition concerning the approved plans that show the proposal. I have also imposed conditions concerning details of the external materials in order to protect the character and appearance of the area, and in relation to the implementation of boundary treatment so that the living conditions are adequately protected.
28. I have imposed a condition regarding surface water drainage works in the interests of providing satisfactory drainage and minimising flood risk. I have also imposed a condition preventing the use of the alleyway by motorised vehicles in the interests of pedestrian safety. In order to protect the amenity value of the trees, a condition which concerns tree protection and working methods is imposed.
29. It is also reasonable and necessary to remove permitted development rights for the future insertion of new windows, in the interests of protecting the privacy of the occupiers of the neighbouring properties. It is not, though, necessary for the removal of such rights to include extensions and other types of householder permitted development. Whilst the site is fairly confined, such a restriction would not be warranted. The Framework states that planning conditions should not be used to restrict such rights unless there is clear justification to do so.
30. I have also not imposed a condition concerning the use of obscure glazing as the effect on the privacy of the occupiers of neighbouring properties would not be dependent on its use to prevent undue overlooking. I have also not imposed a condition in respect of construction matters as this is a modest development and any disruption would be likely for a short time period only. Conditions on these matters would not be reasonable and necessary.
31. Where I have changed the wording of the remaining conditions put forward by the Council, I have done so in the interests of precision and without changing their overall intention.

Conclusion

32. For the reasons set out above and having regard to all matters that have been raised, the appeal should be allowed subject to the conditions.

Darren Hendley

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: Site Location Plan Scale:1250, Dwg. GW/KL/YR/6 Proposed Block Plan Scale 1:500, Dwg. GW/KL/YR/3 Proposed Plans Scale 1:50
- 3) No development of the dwelling hereby permitted shall commence until details of the materials to be used in the construction of the external surfaces of the dwelling have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 4) The boundary treatment of the development hereby permitted shall be constructed as shown on Dwg. GW/KL/YR/3 Proposed Plans Scale 1:50 prior to the occupation of the dwelling hereby permitted and thereafter be maintained.
- 5) No development of the dwelling hereby permitted shall commence until the surface water drainage works for the proposed dwelling shall have been carried out in accordance with details which shall have been previously submitted to and approved in writing by the local planning authority. Thereafter the approved surface water drainage works shall be maintained.
- 6) No motor vehicles shall access the development hereby permitted directly via the pathway between 160 and 162 Yarborough Road or from Elder Road.
- 7) No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees and the appropriate working methods in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees shall be carried out as approved.
- 8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows/dormer windows other than those expressly authorised by this permission shall be constructed on the elevations of the dwelling hereby permitted.



Appeal Decision

Site visit made on 1 February 2022

by R Hitchcock BSc(Hons) DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 February 2022

Appeal Ref: APP/B2002/W/21/3282069

Valley Cottage, The Avenue, East Ravendale DN37 0RX

- 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 Aidan Jones against the decision of North East Lincolnshire Council.
 - The application Ref DM/0350/21/FUL, dated 30 March 2021, was refused by notice dated 15 July 2021.
 - The development proposed is to demolish an existing dwelling, erect new dwelling with a detached garage, a detached barn / stables block with boundary treatments, access, landscaping and boundary ditches.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The address in the banner heading above is taken from the planning application form. However, the Council's Decision Notice uses the alternative of Valley Cottage, Hatcliffe Road, West Ravendale, North East Lincolnshire. This address is also used by the appellant on the appeal form. For the purposes of the appeal, I have relied on the Hatcliffe Road address as that used by the Council as the administrative body for the locality.
3. During the course of the Council's consideration of the planning application, amended plans were submitted by the appellant showing some minor alterations to the scheme. These were the plans on which the Council made its decision and I have proceeded on the same basis.

Main Issue

4. The main issue is the effect of the proposals on the character and appearance of the locality and the Lincolnshire Wolds Area of Outstanding Natural Beauty.

Reasons

5. The site consists of a sloping grassed field and a modest detached bungalow bordered by gardens close to the northern side of the road. The house is backed by a plantation of trees and shares a side boundary with 'Highfield', a residential property to the west. The road wanders through the lower part of a gentle rural valley.
6. The site is situated in the Lincolnshire Wolds Area of Outstanding Natural Beauty (AONB) which, in the locality, is a rural landscape of gently undulating land divided into predominantly arable fields separated by hedging. The area has occasional pockets of trees and some linear plantations. The limited

- buildings are generally in small, isolated clusters. Together, these characteristics provide a positive sense of openness across the landscape.
7. The proposal would see the demolition of the existing bungalow and replacement with a 2-storey dwelling. The building, lying parallel to the road and extending further east in the plot, would have a 2-storey rear return and single storey study to the side. A detached garage with store above would be located forward of the dwelling at the end of a new terraced driveway bordered by hedging close to the roadside verge, which would be regraded.
 8. An 'L' form 5-stall stable block with store and an additional storage building arranged about a new yard area are proposed in the adjacent field. The range would lie close to the edge of the plantation and be set well back from the roadside. The buildings would be served by an extended driveway with additional areas of hardstanding adjacent to them. Landscaping within the field and to its borders, including new hedging and drainage ditches, are also proposed.
 9. Section 85 of The Countryside and Rights of Way Act 2000 requires me to have regard to the purpose of conserving and enhancing the natural beauty of the AONB. The National Planning Policy Framework (the Framework) requires planning decisions to contribute to and enhance the natural and local environment by, amongst other things, protecting and enhancing valued landscapes and recognising the intrinsic character and beauty of the countryside.
 10. Paragraph 17 of the Framework states that great weight should be given to conserving and enhancing the scenic beauty of Areas of Outstanding Natural Beauty, which have the highest level of protection in relation to these issues. The Framework is clear that the scale and extent of development within these areas should be limited.
 11. Although the proposed dwelling would be based on a vernacular design, it would have considerable overall width and depth. Compared to the existing dwelling and those nearby, it would boast a significantly greater overall height. The high gables, substantial continuous frontage and deep return would give rise to a building of significant massing. The subsequent bulk, set on higher ground than the existing building and with reduced screening to the east, would cause it to appear prominent in its setting.
 12. The effect would be increased by the offset position and scale of the large garage. When seen from the main public viewpoints to the south and east of the site, the garage would increase the perception of the overall scale and spread of the domestic buildings.
 13. The proposed stable building would provide for the keeping of up to 5 horses. In addition, a storage area and storage building would be provided about an area of levelled hardstanding. The cumulative size of the buildings is significant for the intended purpose of accommodating five horses on the land. The buildings incorporate relatively large stall areas and ancillary storage elements which would exceed the stabling component in all dimensions and by some degree.
 14. The use of a modest store for feed, bedding and tack is commonplace on most modern stable buildings. According to the appellant there is an additional need

for the storage of associated equipment, however, there is little qualification of what that storage would be and how the significant height of the larger store is necessary to accommodate it. In the context of a protected landscape, I am not persuaded that that element of the proposal is either small or limited for the proposed use of the modest area of land.

15. Furthermore, the use of hardwearing materials in the construction of the stable and storage buildings would give them a formal appearance. The effect on the protected landscape would be permanent and such that the building would potentially outlast the informal use for which it is intended. It would not therefore be a sustainable approach to recreational development in the AONB.
16. Moreover, the location, detached from the group formed by the roadside dwellings, would be a significant incursion into an open area and result in a broad spread of development. The increased spacing between the neighbouring dwellings and remote position of the stables, with attendant requirement for linking access infrastructure and engineering of the ground levels, would introduce a significant sense of development. It would neither reflect the characteristic close grouping of isolated development or the traditional tight clusters of buildings associated with rural farmsteads.
17. The effects of the largely exposed deep eastern elevation of the dwelling, the roadside garage and proposed location of the stables and stores on a rising field would be highly visible on approach along the frontage road from the east. Travelling west from the village along the road, the buildings would be framed by the initial roadside tree lines to focus views towards the developed area. Although the new field boundary and proposed woodland pockets would reduce that effect upon maturity, this would only achieve partial screening and require significant time to establish.
18. The proposed landscaping would be considerably less effective in the wider landscape views. The development would be particularly pronounced from the rising bridleway to the south and the upper section of the B1203 running north from East Ravendale. Clear downward views of the large buildings, the associated large areas of hardstandings, retaining walls and land profiling would be prominent within the lower valley from those vantage points. The proposed planting would not mitigate what would be a considerable adverse effect on the landscape and a significant incursion into the open character of this part of the AONB.
19. There is no dispute from the appellant that the proposal would be prominent. In support of this, the appellant refers to precedent development of both prominent houses and large stables. However, there is little evidence before me of specific examples in their contexts. Precedent is rarely an argument that should carry great weight in planning decisions which should be made on their own merits in the context of the development plan and other material considerations. Moreover, the existence of development elsewhere does not represent an appropriate reason to find in favour of a proposal that would cause harm or lead me to alter my findings on this issue.
20. I acknowledge that the siting of the buildings would avoid adverse impacts on protected trees within the plantation to retain their landscape value. Furthermore, I have little doubt that the recent and proposed planting would reinstate the local characteristic field boundaries and contribute additional pockets of trees on maturity. Alongside new ditches, they would doubtlessly

lead to biodiversity enhancements on those parts of the site. However, the benefits therein would not outweigh the harm to the quality landscape arising from the combined development.

21. For the above reasons, I find that the combined scale and siting of the proposals would fail to protect the open character and appearance of the landscape area. It would conflict with Policies 5, 22 and 42 of the North East Lincolnshire Local Plan 2013-2032 [2018] as they require development to respond to a site's context and local distinctiveness, and to protect and enhance landscape quality character areas and the natural beauty of the AONB.

Other Matters

22. The appellant's willingness to work with the Council in the run up to the submission of the planning application and the supporting recommendation to its Planning Committee are noted. Nevertheless, it is open to a Council to determine the planning application on its individual merits against the development plan and with regard to any relevant material considerations. Accordingly, these are neutral matters in the determination of this appeal.
23. I note that there have been no objections from statutory consultees on matters such as highways, drainage, biodiversity and archaeology. As requirements of the development plan these are not benefits in favour of the development.
24. I acknowledge the degree of support received from some third parties, particularly in relation to the proposed style of the dwelling compared to the existing building, the potential benefits to family living and the contribution to the vitality of the area. However, those benefits are not necessarily dependent on the specific detail of the scheme before me. They are therefore of limited weight in favour of the proposal.
25. I acknowledge the other concerns of some third parties. However, pursuant to my finding on the main issue, my decision does not turn on those matters.

Conclusion

26. For the reasons given above, I have found that the proposal would fail to preserve the landscape and scenic beauty of the Lincolnshire Wolds Area of Outstanding Natural Beauty. Whilst the proposals would provide some biodiversity benefits, these would not outweigh the harm I have identified. Consequently, the appeal proposal conflicts with the development plan taken as a whole and the appeal should be dismissed.

R Hitchcock

INSPECTOR