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DEVELOPMENT MANAGEMENT

APPEALS LIST - 17TH APRIL 2023

APPLICATION NUMBER & SITE ADDRESS	APPEAL REFERENCE & STATUS	OFFICER & PROCEDURE
DM/0046/22/TPO 24 Park Avenue Grimsby North East Lincolnshire DN32 0DQ	AP/020/22 INPROG	Paul Chaplin Fast Track
DM/0285/22/FUL Land Off Torbay Drive Waltham North East Lincolnshire	AP/002/23 INPROG	Richard Limmer Written Representation

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Appeal Decision

Site visit made on 17 March 2023

by J D Westbrook BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 March 2023

Appeal Ref: APP/B2002/D/22/3309818

260 Humberston Fitties, Humberston, GRIMSBY, North East Lincolnshire, DN36 4EY

- 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 P Hadley against the decision of North East Lincolnshire Council.
 - The application Ref DM/0597/22/FUL, dated 1 July 2022, was refused by notice dated 21 September 2022.
 - The development proposed is the demolition of an existing conservatory and timber outbuilding, alterations and extensions to form additional ground floor accommodation at side and rear, raise in roof height to accommodate bed deck at first floor, addition of charred timber cladding, installation of roof lights and various associated internal and external alterations.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issues in this case are the effect of the proposed extensions and alterations on:
 - the character and appearance of the Humberston Fitties Conservation Area, and
 - the living conditions of the occupiers of neighbouring chalet No 259, by way of outlook.

Reasons

3. No 260 is a small chalet located on the north side of Anthony's Bank Road within the Humberstone Fitties Conservation Area (CA). The CA is characterised by low-density, single-storey chalets on a variety of plots within an elongated area of land running along the coast to the south of Cleethorpes. The chalets are all of individual style and design, but most are timber clad with low-pitched or flat roofs. The current chalet at No 260 is brick-built, with a pitched roof that runs from front to back, and it has a conservatory attached to its front elevation. There are small sheds on the southern side of the plot, around the rear of the chalet. A low dyke runs to the rear of the plots on Anthony's Bank Road, separating the chalets on this road from those on 2nd Avenue to the rear.

4. The proposal would involve the demolition of the conservatory and sheds; the extension of the chalet to the rear and side; the cladding of the chalet in timber; alterations to the fenestration; and the raising of the height of the chalet by around 1 metre.
5. Policy 5 of the North East Lincolnshire Local Plan (LP) indicates that development proposals will be considered with regard to suitability and sustainability, having regard to, amongst other things, the size, scale, and density of the proposed development, including impacts on areas of heritage value and upon neighbouring land uses by reason of visual intrusion. Policy 22 of the LP indicates that a high standard of sustainable design is required in all developments. The Council expects the design approach of each development to be informed by a thorough consideration of a site's context and the need to achieve protection and enhancement of heritage assets, including character and local distinctiveness.
6. Policy 39 of the LP requires that development proposals should sustain the cultural distinctiveness and significance of North East Lincolnshire's historic urban and coastal environment by protecting, preserving and, where appropriate, enhancing the character, appearance, significance and historic value of designated and non-designated heritage assets and their settings. In addition, proposals should protect the significance of heritage assets, including their setting, through consideration of scale, design, materials, siting, mass, use and views. In addition, the Council has produced a Chalet Design Guide (DG) for the CA, which includes principles and design guidance relating to chalets in the area.
7. The Council contends that the scale and design of the proposed alterations to the chalet would represent an incongruent over-development of the site which would result in an adverse visual impact on the character and appearance of the CA, and which would impact unacceptably on the amenities of neighbours.
8. The appellant contends the Council has over-exaggerated the impact of the proposed development on the character and appearance of the CA and the residential amenity of neighbouring properties, and has been inconsistent in its decision-making with regard to similar proposals in the area, making particular reference to permission granted recently for a new chalet at No 268.

Character and appearance

9. The current chalet would appear to be around 4 metres in height to the ridge. Unlike most other chalets along the road, in the vicinity of the appeal site, it runs east-west through the site such that it projects significantly further forward on the plot than other chalets. The proposal would result in the demolition of the small front conservatory, which would represent an improvement to the relationship between the appeal property and its neighbours. Similarly the use of timber cladding would make the chalet appear more characteristic in design than its current appearance.
10. Despite these improvements, however, the chalet would still project well further forward than the neighbouring chalets to each side, and it would be extended to the rear and side, such that it would be little more than 1 metre away from both the side boundaries and the rear boundary. The DG indicates that extensions should be of a scale and character that reflects the original building, and should not dominate the original, being no more than 50% of the

original floor area. In addition, a minimum of 2 metres should be left to side and rear boundaries, to maintain the open characteristic of 'plotland' development. With regard to the proposed scheme, it would appear that the original building did not include the conservatory, and that the floor area of the extended building would be approaching twice that of the original building without the conservatory. It would also fail to meet the required spacing to the boundary on all three of the side and rear elevations.

11. In this case, the area to the front of the chalet would continue to appear uncharacteristically shallow compared with the rest of the chalets on this frontage, while the current small rear garden would effectively be lost. In addition, the open space to the southern side of the current chalet would be partly built over. I acknowledge that the existing sheds would be removed, but these appear as separate small elements, whereas the rear and side extensions would result in the appeal property appearing as a unified and somewhat over-dominant feature in the context of its surroundings. Moreover, by virtue of its forward position and the prominent front gable above the conservatory, the current chalet already appears as a higher, more bulky building than its neighbours. This would be accentuated, to harmful effect, by raising the roof over a metre and adding an extension almost to the southern side boundary.
12. The resultant extended building would appear significantly out of scale and character with the street scene along Anthony's Bank Road and, by virtue of its height and proximity to the rear boundary, it would also appear out of scale when viewed over the low dyke from 2nd Avenue.
13. I note the existence of the newly built chalet at No 268. It would appear that this is a replacement chalet for an earlier building that was in poor condition, and different principles apply to developments such as this. In any case, it would appear that this replacement chalet is not as high as the proposed chalet at No 260 and has lower eaves. Also, the roof ridge runs across the site, sloping away from the front, making it appear less bulky. Moreover, the front elevation is set further back in its plot than that proposed for the appeal property, and there would appear to be more space to the side boundaries. On the basis of the above, I do not consider that it is a precedent for the proposed extensions and alterations at No 260.
14. In the light of the above, I find that the proposed extensions and alterations would result in a chalet that would appear out of scale and over-dominant on its plot. On this basis, and in the context of its surroundings, it would not preserve or enhance the character or appearance of the CA, and would be harmful to it. Although such harm would be less than substantial, there would be no substantial public benefits to outweigh that harm. The proposal would, therefore, conflict with relevant guidance in the National Planning Policy Framework (The Framework), and with Policies 5, 22 and 39 of the LP.

Living conditions

15. The appeal property lies to the south of No 259. It is currently taller than the chalet at No 259 and projects further forward on the plot. Although the small front conservatory would be removed as part of the proposal, the overall length of the chalet would appear to be slightly longer than the existing building. It would still project further forward than the chalet at No 259 and would, in addition, project further to the rear. Moreover, it would be more than 1 metre taller than it is now. I have no details of potential overshadowing, and I do not

consider that the proposal would result in any significant loss of light to the property at No 259. However, the increased length and height would result in a more bulky and overbearing appearance when viewed from No 259, and therefore represent a more oppressive outlook.

16. I consider that the living conditions of the occupiers of No 259 would be harmed by way of outlook, as a result of the proposed increase in height and length of the appeal building. I do not consider that this would be substantial enough to be a reason, on its own, to dismiss this appeal, but it would add further to the harm identified above to the character and appearance of the CA. In the light of this, I find that the proposal would be harmful to the living conditions of the occupiers of No 259 by way of outlook, albeit only to a limited extent. Nevertheless, it would, therefore, conflict with Policy 5 of the LP.

Conclusion

17. I find that the proposal would be harmful to the character and appearance of the CA and to the living conditions of the occupiers of No 259 by way of outlook. On this basis it would conflict with Policies in The Framework, with Policies 5, 22 and 39 of the LP, and with guidance in the DG. Accordingly, I dismiss this appeal.

J D Westbrook

INSPECTOR



Appeal Decision

Site visit made on 23 February 2023

by **S Hunt BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 31 March 2023

Appeal Ref: APP/B2002/W/22/3307340

Land Adj Old Nursery, Cheapside, Waltham, North East Lincolnshire DN37 0HU

- 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 Mrs Hannah Haigh of Grainsby Farms Ltd against the decision of North East Lincolnshire Council.
 - The application Ref DM/0393/22/OUT, dated 28 April 2022, was refused by notice dated 9 September 2022.
 - The development proposed is erection of 9 dwellings and formation of vehicular access.
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Decision

1. The appeal is allowed and outline planning permission is granted for the erection of nine dwellings and formation of vehicular access at Land Adj Old Nursery, Cheapside, Waltham, North East Lincolnshire DN37 0HU in accordance with the terms of the application, Ref DM/0393/22/OUT, dated 28 April 2022, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. The application was submitted in outline form with only access for consideration at this stage. The layout, scale, appearance, and landscaping are reserved for subsequent consideration. The appellant submitted a block plan and elevations¹, but given the outline form of the proposals I have considered these only as an indication of how nine dwellings could be accommodated within the site. The access junction layout plan², including visibility splays and vehicle tracking, forms part of the access to be considered at this stage.

Main Issue

3. The main issue in the determination of this appeal is the effect of the proposed development on the character and appearance of the area.

Reasons

4. The appeal site is situated outside the development boundary for the settlement of Waltham as defined in the North East Lincolnshire Local Plan 2018 (the Local Plan), and is therefore within the countryside. At the time of the decision it was an agreed matter that the Council were unable to demonstrate a five-year supply of deliverable housing sites. Consequently, both parties concur that the policies which are most important for determining the

¹ 1392-002, and 1395-005 to 011

² ADC2897-DR-001-P5

application are out-of-date, triggering the 'tilted balance' set out in paragraph 11 d) of the National Planning Policy Framework (the Framework). I return to this matter later in this decision when considering the planning balance.

Character and Appearance

5. The site lies immediately adjacent to residential dwellings which line Cheapside. Development on this side of the road is clearly separated from the main built-up area of Waltham by open fields. The opposite side of Cheapside has undergone and continues to experience significant residential development in recent years. The locality is evidently undergoing change, which has affected its rural character and extended the settlement southwards towards the nearby golf club. The ribbon of development on this side of Cheapside has been recently punctuated by the construction of a cul-de-sac at Anita Grove.
6. The site itself comprises a narrow arable field which is separated from the wider area of farmland by a farmhouse track access. Mature vegetation provides screening to the Cheapside frontage, whilst closeboard fencing and a hedge bounds its immediate neighbour known as the Old Nurseries. The remaining boundaries are open and as such the site is readily visible from a number of viewpoints.
7. The Council indicate that the site lies within sub-section B iii of their Landscape Character Assessment 2015. Whilst I have not been provided with a copy of the document, I would agree with the Council's brief description of the area being characterised by flat open farmland. There is no indication before me that the site forms part of a valued landscape for the purposes of part a) of paragraph 174 of the Framework.
8. The indicative layout plan illustrates how the nine proposed dwellings could be arranged within the site, incorporating a landscaped buffer along the side boundary where it adjoins the farm access and open fields. The plans also indicate a set-back of development within the site, and this would enable the existing vegetation to be retained and reinforced (except where required to be removed for access). The plans indicate that nine dwellings could be accommodated with adequate space around them for gardens and parking.
9. There would be an inevitable urbanising effect on the landscape, however with an appropriate layout and landscaping, and limited to nine two storey dwellings and/or bungalows, the effects could be appropriately mitigated through careful design. The housing would eventually be viewed in the context of the surrounding development along Cheapside and as such would not result in significant harm to the character and appearance of the area.
10. The proposals conflict with Local Plan policy 5, in failing to meet any of the criteria for development in the countryside. Nonetheless, I am satisfied that the effect of the proposals on area character and appearance would be acceptable, and that subject to securing appropriate details at reserved matters stage it generally complies with Local Plan policy 22. This seeks for a high standard of design which reflects the site's context, amongst other criteria.

Other Matters

11. The land is greenfield but is not designated as green belt, and as such does not require consideration of green belt policies. I also acknowledge that the land has not been in use as a commercial nursery, and that the adjoining dwelling is

not a bungalow but has two storeys. Nonetheless, these matters have limited bearing on my decision. On my site visit, I noted that there are windows to the side elevation of the Old Nurseries, and there is a potential for effects on the occupant's living conditions. However, the layout plan provided is illustrative only, and I am satisfied that such matters can be dealt with at reserved matters stage.

12. A Preliminary Ecological Appraisal was submitted by the appellant, including consideration of a number of habitats including the protected species pointed out by interested parties. This concluded that precautionary working practices would be required, together with a range of ecological enhancements. A condition would ensure that the recommendations identified in the Appraisal are undertaken prior to the commencement of any development.
13. In terms of access and traffic generation, I note that the Highway Authority do not object to such matters. The proposed drainage attenuation pond is required as part of sustainable drainage systems, and its location and details would be a matter to be considered at reserved matters stage. Subject to conditions, I am satisfied that nine dwellings would not result in an unacceptable impact on highway safety nor drainage. The hedge and dyke which run alongside the boundary of the Old Nurseries do not form part of the application site, therefore maintenance of these features do not affect my decision.

Planning Balance

14. At the time of the decision the Council were unable to demonstrate a five year supply of deliverable housing sites, confirmed by the latest assessment published in September 2021 (covering the period to 31 March 2026) which identifies a 4.2 years supply. The Council have put to me that their housing supply figure will change shortly, given that the Local Plan would be five years old on 22 March 2023. They state that after this time the requirement would be set against the local housing need calculated using the standard method, and as a result the overall five-year requirement would fall by a significant amount. Whilst I acknowledge the timeframe since adoption of the Local Plan in terms of paragraph 74 of the Framework, there is no published confirmation of any change to the supply position before me. Nor does the evidence indicate whether the strategic policies have been reviewed and found not to require updating, in the context of footnote 39.
15. I have found that the proposed development is acceptable in terms of its effects on character and appearance of the area. I also find that it would bring a number of benefits, not only in terms of boosting housing supply. Whilst peripheral to the centre of Waltham, the appeal site is reasonably accessible to a range of services by modes other than the private car. The provision of additional homes would assist in maintaining the vitality of the community and support local services, and create moderate economic benefits including employment during construction and increased local spending. Moderate environmental benefits would arise through biodiversity enhancements over and above the existing agricultural use of the land. Collectively, the benefits would outweigh the conflict with Local Plan policy 5. This would be my position whether or not the 'tilted balance' of paragraph 11 d) of the Framework has been triggered.

Conditions

16. The Council has provided a list of suggested conditions which I have considered against the tests in the Planning Practice Guidance. I have taken into account the appellant's suggested amended wording for some of them, and note that they have not raised any objections to pre-commencement conditions. In addition to the standard conditions for the submission of the relevant reserved matters and commencement of development, I have imposed a condition listing the approved plans as this provides certainty. I have not included the indicative plans as they are subject to change at reserved matters stage.
17. A condition requiring a final scheme for surface and foul water drainage is necessary to ensure the site can be properly and sustainably drained. I have made a slight amendment to its wording to ensure such details are included with reserved matters given that an attenuation pond is proposed, and this could affect the layout and landscaping of the site. I have not been provided with details of the relevant Local Plan policy regarding water recycling, so at this stage I am not persuaded that it would meet the tests. In any event, such details could be provided as part of the design at reserved matters stage.
18. A condition limiting construction working hours is necessary in the interests of the living conditions of neighbouring residents. I have amended the condition requiring submission of a construction method statement, as this can cover both management of traffic as well as noise and dust during construction. I am not convinced that details of numbers/types/sizes of vehicles and delivery schedules are necessary for a minor development of nine dwellings, so I have deleted these particular criteria of the method statement. Working hours are already specified in the previous condition. Overall, the condition is necessary in the interests of highway safety, air quality and living conditions.
19. Access details are approved as part of this outline application and the internal road/parking layout would form part of future reserved matters. I have therefore made minor amendments to require details to be provided with reserved matters, and to ensure that the conditions meet the tests. I have deleted the suggested condition requiring a road safety audit as I can find no reference to the necessity for this either in the quoted policy nor the Highway Authority's response. Likewise, I cannot locate reference to a requirement for electric car charging points in the evidence. Nonetheless in the interests of the Government's aim to increase the use of electric cars and local and national policies to improve air quality, I am content to include this condition.
20. Both parties have suggested conditions relating to biodiversity, following my request for comments. I have amalgamated them so that submission of a Biodiversity Enhancement and Management Plan is based on the Ecological Appraisal's recommendations. This includes consideration of protected species that may be present on the site when construction commences.

Conclusion

21. For the reasons given above, and having had regard to all matters raised, I conclude that the appeal should be allowed.

Susan Hunt

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 development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan (1395-001) and Access Junction Layout (ADC2897-DR-001-P5).
- 5) The details submitted pursuant to any reserved matters application shall include a final scheme for the sustainable provision of surface water drainage and a scheme for foul drainage including details of discharge rates. The development shall be completed in accordance with the approved details and the drainage implemented prior to occupation.
- 6) Construction works shall take place only between 08:00 and 18:00 on Mondays to Fridays inclusive and between 08:00 and 13:00 on Saturdays, and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 7) No development shall take place until a Construction Method Statement (CMS) has been submitted to, and approved in writing by the local planning authority. The CMS shall provide for:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) details of wheel washing facilities;
 - v) measures to control the emission of noise, dust and dirt during construction; and
 - vi) Contact details of the person with responsibility for implementation of the CMS.

The approved CMS shall be adhered to throughout the construction period for the development.
- 8) The details submitted pursuant to any reserved matters application shall include the following details:
 - a) the junction and access to the site and proposed layout of the carriageways and footways on the development;
 - b) the wearing course materials proposed for the carriageways and footways;
 - c) cross sections;
 - d) the highway drainage system;
 - e) the proposed locations of street lighting columns, all services and ducts for services, within the carriageways and footways;

- f) the number, location and layout of the vehicle parking facilities to serve the proposed development;
 - g) management arrangements for any carriageways, footways and/or landscaped areas not to be adopted by the local authority; and
 - h) swept path analysis demonstrating turning manoeuvres for emergency vehicles on all carriageways (adopted and private), and refuse vehicles on all adopted carriageways.
- 9) Prior to any above ground development, details of a scheme for the provision of vehicle electric recharge points shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be provided prior to the occupation of the dwelling(s) to which they relate and shall be retained at all times thereafter.
- 10) Before the development hereby permitted is commenced a Biodiversity Enhancement and Management Plan (BEMP), to be based on the recommendations identified in the submitted Preliminary Ecological Appraisal, shall be submitted to and approved by the Local Planning Authority. The biodiversity enhancements shall be implemented in accordance with a timetable set out in the BEMP and shall be managed and maintained thereafter in accordance with the BEMP.