

**DEVELOPMENT MANAGEMENT**
**APPEALS LIST - 18TH JAN 2024**

<b>APPLICATION NUMBER &amp; SITE ADDRESS</b>	<b>APPEAL REFERENCE &amp; STATUS</b>	<b>OFFICER &amp; PROCEDURE</b>
DM/0046/22/TPO  24 Park Avenue Grimsby North East Lincolnshire DN32 0DQ	AP/020/22  INPROG	Paul Chaplin  Fast Track
DM/1002/22/FUL  1, 3, 4, 5, 6 And 7 Anita Grove (former Tynedale, Cheapside) Waltham North East Lincolnshire DN37 0BW	AP/011/23  INPROG	Bethany Loring  Written Representation
DM/0778/22/FUL  Plot 80 Humberston Fitties Humberston North East Lincolnshire	AP/015/23  INPROG	Emily Davidson  Written Representation
DM/0696/19/FUL  Land East Of Midfield Road Humberston North East Lincolnshire	AP/016/23  INPROG	Richard Limmer  Informal Hearing

DM/0795/22/FUL  The Barns Killingholme Road Habrough North East Lincolnshire	AP/017/23  INPROG	Jonathan Cadd  Written Representation
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DM/0240/21/FUL  Land At Roundhill And Fairfield Plantations Ravendale Road Hatcliffe North East Lincolnshire	AP/018/23  INPROG	Richard Limmer  Written Representation
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DM/0324/23/FULA  21 Church Lane Humberston North East Lincolnshire DN36 4HZ	AP/019/23  INPROG	Owen Toop  Fast Track
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DM/1098/22/OUT  Land South Of Millennium Park Humberston Avenue Humberston North East Lincolnshire	AP/020/23  INPROG	Jonathan Cadd  Informal Hearing
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# Appeal Decision

Site visit made on 2 January 2024

by **A Berry MTCP (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 8<sup>th</sup> January 2024

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**Appeal Ref: APP/B2002/W/23/3322792**

**3 Beckhythe Close, Scartho, Grimsby, North East Lincolnshire DN33 2ES**

- 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 Peter Boulby against the decision of North East Lincolnshire Council.
  - The application Ref DM/0123/23/FUL, dated 17 March 2023, was refused by notice dated 27 April 2023.
  - The development proposed is described as “greenhouse on land opposite No 3 Beckhythe Close”.
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## Decision

1. The appeal is dismissed.

## Procedural Matters

2. The greenhouse has already been erected. Therefore, I have considered the appeal retrospectively.
3. Since the appeal was lodged, a revised National Planning Policy Framework has been published. This has not raised any new matters which are determinative to the outcome of this appeal.

## Main Issue

4. The main issue is the effect of the development on the character and appearance of the surrounding area.

## Reasons

5. Beckhythe Close comprises a cul-de-sac of bungalows with front gardens that are open to the road with an absence of front boundary treatments. The appeal site comprises an almost triangular-shaped plot of land on the opposite side of Beckhythe Close from the appellant’s dwelling. It forms part of a larger landscaped verge along one side of the road which creates a verdant character. A greenhouse, of a typical design, has been erected on a concrete slab, adjacent to the road. At the time of my site visit, some vegetation surrounded the greenhouse. However, it was low in height and there was an absence of vegetation along the roadside.
6. The greenhouse is not visible from the entrance to Beckhythe Close due to the intervening distance, the curved design of the road, and the presence of vegetation. However, it is visually prominent when viewed from the road adjacent to the bungalows. Although small in scale, the greenhouse appears incongruous and alien in the road and erodes the road’s verdant and open

character. Although views of the greenhouse are restricted to Beckhythe Close, this does not outweigh the harm I have identified to the character and appearance of the road.

7. While greenhouses are features commonly associated with residential dwellings, they are not usually sited forward of a dwelling's principal elevation or outside of a dwelling's residential curtilage. Consequently, the greenhouse's siting appears visually detached and isolated from the appellant's dwelling. Although comprising a glazed structure, it would not be transparent throughout the year as it would be filled with growing plants. Therefore, the prominence of the structure would likely be more discernible during the summer. Notwithstanding this, at the time of my site visit, the greenhouse was empty of plants and still appeared visually prominent from the road.
8. I acknowledge that the Council's decision to refuse the application was made against the recommendation of its Planning Officers. However, the main issue is one that is a matter of judgement and Council Members are entitled not to accept the professional advice of its officers, so long as a case can be made for the contrary view.
9. In reference to the main issue, the development harms the character and appearance of the surrounding area. It would conflict with Policies 5 and 22 of the North East Lincolnshire Local Plan 2013-2032, adopted 2018 which, amongst other things, require a high standard of sustainable design in all developments including a thorough consideration of a particular site's context, and to ensure development proposals within defined boundaries are considered with regard to suitability.

### **Conclusion**

10. For the reasons given above, having regard to the development plan as a whole and all other material considerations, I conclude that the appeal should be dismissed.

*A Berry*

INSPECTOR



## Appeal Decision

Site visit made on 2 January 2024

by **A Berry MTCP (Hons) MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 09 January 2024**

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**Appeal Ref: APP/B2002/W/23/3323210**

**16 Osborne Street, Cleethorpes, North East Lincolnshire DN35 8LB**

- 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 Raymond Swinburn against the decision of North East Lincolnshire Council.
  - The application Ref DM/0124/23/FUL, dated 13 February 2023, was refused by notice dated 17 April 2023.
  - The development proposed is the erection of a metal shutter to the ground floor windows and door.
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. Since the appeal was lodged, a revised National Planning Policy Framework ('the Framework') has been published. This has not raised any new matters which are determinative to the outcome of this appeal.

### Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the surrounding area, including the Cleethorpes Central Seafront Conservation Area ('the CA').

### Reasons

4. The appeal site comprises a two-storey red brick mid-terrace building that is occupied by a hair and beauty salon to the ground floor and a flat above. It is located on the western side of Osborne Street and within Cleethorpes' town centre. It forms a terrace of ground floor commercial businesses which are mixed in their appearance. The property to the south of the appeal site does not incorporate security shutters, while the property to the north has a security shutter to the door but not to the windows. Therefore, this part of Osborne Street is more welcoming and vibrant than the northern section where blank walls, security shutters and a large roller shutter door to a vehicle garage create an enclosed and less pleasant environment.
5. The appeal site is also within the CA and therefore, I have a statutory duty under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of that area. According to the Cleethorpes Central Seafront Conservation Area Appraisal, adopted 2016 ('the Appraisal'), the CA contains elements of earlier historic settlement including the two former fishing

hamlets of Oole and Itterby. It encompasses the promenade to the beach, the pleasure gardens and pier, as well as parts of the town centre. The area surrounding the appeal site is characterised by commercial uses abutting the back edge of the pavement, typically two or three storeys in height and mixed in their appearance. The significance of the CA is derived from its historic and aesthetic values.

6. The shop front has a centrally positioned wooden and glass door with a window above. Either side of the door is a large wooden framed window that is subdivided at the top with a long narrow rectangular window. The windows and door are recessed behind a reveal and the windows are positioned above a tiled stall riser. Above the shop front is a fascia sign that has minimal projection beyond the façade and did not appear to be illuminated. The building's façade incorporates some brick detailing and arched headers above the two first floor windows. Consequently, it has an attractive appearance that contributes to the character and appearance of the CA.
7. The proposed roller shutter would be housed in a box positioned across the top of the existing shop front. Although it would not obscure any historic features, it would not relate well to the shop front as it would obscure part of the upper rectangular windows. It would also project forward of the shop front, making it a dominant feature regardless of whether the shutter is open or closed. The shutter would include a vision panel, however, its appearance would appear as a predominantly solid, metal shutter of an industrial appearance that would obscure the full width of the shop front when closed. For that reason, it would significantly detract from the building's attractive façade.
8. I appreciate that the use of the ground floor as a hair and beauty salon could mean that the premises would be open during the day. However, I have not been provided with the salon's opening hours. Furthermore, at the time of my site visit on a weekday lunchtime, the business was closed. Consequently, it could be assumed that the shutters would also be closed at this time, particularly as salons tend not to be open seven days a week. While I appreciate this represents only a snapshot in time, even if the shutters were open during the daytime, it is likely they would be closed during evening hours. Therefore, there would be a significant number of hours during which the shutters would present a blank and unwelcoming façade in proximity to passing pedestrians and vehicles using Osborne Street.
9. At the time of my site visit, I witnessed numerous solid roller shutters on commercial premises in the surrounding area, including within the northern part of Osborne Street and within the CA. These examples presented a stark and deadening appearance to the character and appearance of the area. The proposal would cumulatively add to these existing shutters, further eroding the vibrancy of the southern section of the street and the surrounding area.
10. The appellant has provided addresses of premises where roller shutters have been erected in the surrounding area. However, limited information has been provided regarding their planning history and therefore, it is not known whether planning permission was obtained. Even if planning permission was granted for these developments, I do not know the precise circumstances regarding their approval or whether the development plan policies they were considered against are the same. In any event, I must determine each case on its own merits.

11. Having regard to the advice in the Framework, I find that the appeal proposal results in less than substantial harm to the character and appearance of the CA. Paragraph 208 of the Framework advises that less than substantial harm should be weighed against the public benefits of the proposal.
12. The information before me does not demonstrate that there is an issue with anti-social behaviour in the surrounding area or that the appeal site has been subject to particular issues such as vandalism or burglaries. Even if this could be demonstrated, I am not persuaded that the proposal is the minimum required to secure the premises against vandalism or crime, particularly as there were examples of commercial premises in the surrounding area with no shutters or with a less solid type of shutter. Accordingly, any public benefits of the proposal would be limited and would not outweigh the harm to the significance of the CA that I have identified.
13. In reference to the main issue, the proposed development would cause significant harm to the character and appearance of the surrounding area, including the CA. It would conflict with Policies 5, 22, 23 and 39 of the North East Lincolnshire Local Plan 2013-2032, adopted 2018 which, amongst other things, seek to ensure that developments enhance the centre's attractiveness as a place to visit, work and socialise; maintain and sustain the historic environment; be informed by a thorough consideration of a particular site's context; and ensure that the installation of security grilles and shutters do not detract from the visual amenities of the street scene.

### **Other Matters**

14. The appellant has put forward details of developments undertaken by the Council that they assert do not comply with the Appraisal or The Conservation Area Management Plan ('the MP'). Limited information has been provided regarding the developments mentioned. However, the developments involve the demolition of a public house and works to the public realm, which are not directly comparable to the appeal proposal.
15. The appellant asserts that the Appraisal and the MP both contain inaccuracies. However, this has not prevented me from forming a view on the main issue. While the Appraisal and the MP may provide limited guidance on acceptable measures to protect premises within the CA from crime and vandalism, the appellant could have sought pre-application advice from the Council prior to the submission of the planning application.

### **Conclusion**

16. For the reasons given above, having regard to the development plan as a whole and all other material considerations, I conclude that the appeal should be dismissed.

*A Berry*

INSPECTOR



## Appeal Decision

Site visit made on 2 January 2024

by **A Berry MTCP (Hons) MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 18 January 2024**

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**Appeal Ref: APP/B2002/W/23/3321834**

**Tynedale (Anita Grove), Cheapside, Waltham DN37 0HU**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
  - The appeal is made by Mr Paul Glover against the decision of North East Lincolnshire Council.
  - The application Ref DM/1002/22/FUL, dated 9 November 2022, was refused by notice dated 3 February 2023.
  - The application sought planning permission for the resubmission of planning application DM/0208/22/FUL for the variation of Condition 1 (approved plans) as granted on DM/0857/21/FUL to revise the approved boundary treatments to plots 1, 3, 4, 5, 6 and 7 without complying with a condition attached to planning permission Ref DM/0857/21/FUL, dated 10 November 2021.
  - The condition in dispute is No 1 which states:  
*The development shall be carried out in accordance with the following plans:*
    - Site Location Plan and Block Plan - 16-500-100L*
    - Proposed Plans and Elevations for Plot 5 - 16-500-203H*
    - Landscaping Plan - 16-500-103C**The following plans approved under DM/0406/21/FUL;*
    - Proposed Plans and Elevations for Plot 7 - 16-500-205F**The following plans approved under DM/0308/20/FUL;*
    - Proposed Plans and Elevations for Plot 4 - 16-500-202D*
    - Proposed Plans and Elevations for Plot 6 - 16-500-204H**The following plans approved under DM/0420/16/FUL;*
    - Proposed Drainage Plan - EWE/1987/01 Rev A*
    - Proposed Plans and Elevations for Plots 1 and 2 - 16-500-200 Rev A*
    - Proposed Plans and Elevations for Plot 3 - 16-500-201 Rev A*
    - Proposed Plans and Elevations for Garages - 16-500-206 Rev A*
    - Proposed Boundary Treatments - 16-500-101*
  - The reason given for the condition is: *For the avoidance of doubt in the interests of proper planning and in accordance with Policies 5, 22, 34 and 42 of the North East Lincolnshire Local Plan 2013-2032 (adopted 2018).*
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### Decision

1. The appeal is allowed and planning permission is granted for the variation of Condition 1 (approved plans) as granted on DM/0857/21/FUL to revise the approved boundary treatments to plots 1, 3, 4, 5, 6 and 7 at Tynedale (Anita Grove), Cheapside, Waltham DN37 0HU in accordance with the terms of the application, Ref DM/1002/22/FUL, dated 9 November 2022, and subject to the conditions in the schedule to this decision below.



## **Procedural Matters**

2. Since the appeal was lodged, a revised National Planning Policy Framework has been published. This has not raised any new matters which are determinative to the outcome of this appeal.
3. At the time of my site visit, the majority of the dwellings had been constructed, with some occupied. The revisions to the boundary treatments sought permission by this appeal also appeared to have taken place. Therefore, I have considered the appeal retrospectively.

## **Background and Main Issue**

4. Planning permission<sup>1</sup> was granted for the demolition of a bungalow and the construction of seven dwellings. Planning permission<sup>2</sup> was subsequently granted to vary Condition 2 (the approved plans) to allow for amendments to the site layout and the design of the dwellings on plots 4, 5 and 6. A further planning permission<sup>3</sup> was approved to vary Condition 1 (the approved plans) of the revised scheme to show the removal and replacement of a tree.
5. The appellant seeks planning permission for the retention of various changes to boundary treatments within the site<sup>4</sup> as a variation to Condition 1 (approved plans) attached to planning approval DM/0857/21/FUL. The information before me suggests it is the omission of a 1.8m high close boarded fence along the northwest boundary of the site between the rear of 'Mount Royal' and the front of 7 Anita Grove that is in dispute between the main parties.
6. Accordingly, the main issue is the effect of the omission of the approved close boarded fence along the northwest boundary of the appeal site on the character and appearance of the surrounding area and the security of the adjacent neighbouring property.

## **Reasons**

7. The northwest boundary comprises a narrow dyke that was flowing with water at the time of my site visit. Adjacent to the dyke, on the side of the appeal site, is a grass verge alongside an internal road that provides access to 5, 6 and 7 Anita Grove. On the opposite side of the dyke is a belt of trees and a post and wire fence, beyond which is a field/paddock and the rearmost section of land belonging to The Old Nurseries which, at the time of my site visit, comprised mown grass and outbuildings. It is proposed to leave this boundary as is, and not erect the 1.8m high close boarded fence along the full length of the grass verge as previously depicted on the approved drawing.
8. The close boarded fence would extend a considerable distance along the access road, unduly enclosing it. It would be domestic in appearance which would appear incongruous and significantly contrast with the rural character of the adjacent land. I have been directed to examples of close boarded fences within the appeal site and the surrounding area. However, they tend to surround the side and rear gardens of dwellings. Consequently, I find that the omission of the fence would greatly improve the character and appearance of the surrounding area.

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<sup>1</sup> Planning ref DM/0420/16/FUL

<sup>2</sup> Planning Ref DM/0308/20/FUL

<sup>3</sup> Planning Ref DM/0857/21/FUL

<sup>4</sup> Planning Ref DM/1002/22/FUL

9. I acknowledge that the housing development has led to more people and vehicles being in proximity to the land belonging to The Old Nurseries than when it previously formed part of the rear garden to a bungalow. However, a dyke, a tree belt and a post and wire fence would impede people's ability to access the adjacent land, particularly when the dyke is flowing with water. Furthermore, No's 5, 6 and 7 provide natural surveillance of the boundary and access road; street lighting is located adjacent to the boundary that boosts security; and the road is a no through road with the section closest to No's 6 and 7 being private, which limits the number of passing people and vehicles. Consequently, I find that the omission of a fence would not impair the security of the adjacent neighbouring property.
10. It has been purported that a hedge along the northwest boundary was removed prior to the original planning application<sup>5</sup> being submitted. I have been directed to a historic aerial photograph that appears to show a hedgerow along this boundary. The photograph is not dated, but the cars and the differences in the surrounding area suggest that it was taken a considerable time ago. Therefore, from the evidence before me, it is unclear when the boundary hedge was removed.
11. There is a dispute between the parties regarding the use of the land adjacent to the northwest boundary, with the landowner stating it forms a paddock and part of the garden to their property. However, it is clear from the landowner's historic aerial photograph that the land did not form part of the third party's garden at that time, nor I have not been provided with a Certificate of Lawfulness to confirm the use of the land as garden. Notwithstanding this, I have found that the absence of a boundary fence would not adversely affect the security of this land.
12. In reference to the main issue, the omission of the approved close boarded fence along the northwest boundary of the appeal site would not adversely affect the character or appearance of the surrounding area or the security of the adjacent neighbouring property. Therefore, it would comply with Policy 5 of the North East Lincolnshire Local Plan 2013-2032: Planning for Growth, adopted 2018 which, amongst other things, seeks to ensure that development proposals have regard to their impact upon neighbouring land uses by reason of disturbance or visual intrusion and areas of landscape, including open land that contributes to settlement character. It would also comply with Chapter 12 of the Framework that seeks to ensure that development are well designed with a high standard of amenity for existing and future users.

### **Other Matters**

13. It has been suggested that a gate could be inserted within the fence to allow access for the maintenance of the dyke. However, a fence would considerably narrow the workable area and prevent the use of mechanical machinery. This view is supported by the Council's Drainage Team who state the fence should be avoided. It has been suggested by the adjacent landowner that the maintenance of the dyke could be done from their land. However, I do not have a mechanism before me to ensure this would occur.
14. The failure of the Council to impose a pre-commencement condition for the erection of the previously approved fence is noted. However, it has not

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<sup>5</sup> Planning ref DM/0420/16/FUL

prevented me from forming a view on the appeal proposal. Concern has been raised regarding "Phase 2 of the Anita Grove development" and its affect on the security of the adjacent land. However, I have not been provided with details of this scheme or whether planning permission has been granted. Furthermore, I must determine the proposal on its own merits.

15. Concern has been raised that the omission of the fence would lead to children falling into the dyke. However, the occupiers of the dwellings alongside the dyke are aware of its presence as they are responsible for its maintenance, and it is located on the opposite side of an access road and therefore children would likely be supervised in this area. Furthermore, even if the fence was constructed, children could still fall into the dyke from the neighbouring land, or from the rear garden of No 7 which has a Lincolnshire post and rail fence to the boundary with the dyke and a similar concern was not raised in respect of this fence.

### **Conditions**

16. The Council has provided a list of conditions which I have had regard to with respect to the tests for conditions set out within the Framework. I have specified the approved plans for the avoidance of doubt and in the interests of proper planning. Conditions to ensure the development is constructed in accordance with details previously approved in respect of surface water drainage, highway construction, a Construction Management Plan, external materials, an Arboricultural Report and a landscaping scheme are necessary as the development has not been completed. A condition in respect of the implementation and future maintenance of the approved landscaping scheme is necessary to ensure the appearance of the development is acceptable.

### **Conclusion**

17. For the reasons outlined above, having had regard to the development plan as a whole and all other matters raised, the appeal should be allowed.

*A Berry*

INSPECTOR

## **Schedule of Conditions**

- 1) The development shall be carried out in accordance with the following plans:

Proposed Boundary Treatments - 16-500-101 Rev D

The following plans approved under DM/0857/21/FUL:

- Site Location Plan and Block Plan - 16-500-100L
- Proposed Plans and Elevations for Plot 5 - 16-500-203H

The following plans approved under DM/0406/21/FUL:

- Proposed Plans and Elevations for Plot 7 - 16-500-205F

The following plans approved under DM/0308/20/FUL:

- Proposed Plans and Elevations for Plot 4 - 16-500-202D
- Proposed Plans and Elevations for Plot 6 - 16-500-204H

The following plans approved under DM/0420/16/FUL:

- 1567/001
- Proposed Drainage Plan - EWE/1987/01 Rev A
- Proposed Plans and Elevations for Plots 1 and 2 - 16-500-200 Rev A
- Proposed Plans and Elevations for Plot 3 - 16-500-201 Rev A
- Proposed Plans and Elevations for Garages - 16-500-206 Rev A

- 2) The development shall be built out in accordance with the surface water drainage details approved under DM/0235/17/CND.
- 3) The development shall be built out in accordance with the highway construction details approved under DM/0235/17/CND.
- 4) The development shall be built out in accordance with the Construction Management Plan approved under DM/0235/17/CND.
- 5) The development shall be built out in accordance with the external construction materials approved under DM/0235/17/CND.
- 6) The development shall proceed in accordance with the details and recommendations set out in the Arboricultural Report dated April 2016 as supplied in DM/0420/16/FUL.
- 7) The development shall be built out in accordance with the landscaping scheme approved under DM/0235/17/CND.
- 8) The scheme of landscaping and tree planting required through Condition 7 of this approval shall be completed within a period of 12 months, beginning with the date on which development began or within such longer period as may be first agreed in writing by the Local Planning Authority. All planting shall be adequately maintained for 5 years, beginning with the date of completion of the scheme and during that period all losses shall be replaced during the next planting season.

**\*\*\*End of Conditions\*\*\***