
Appeal Decision

Site visit made on 4 October 2016

by Claire Searson MSc PGDip BSc (Hons) MRTPI IHBC

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 18th October 2016

Appeal Ref: APP/B2002/W/16/3151553

Spiders Web, Carr Lane, Grimsby, North East Lincolnshire, DN32 8LN

- 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 Richard Wells against the decision of North East Lincolnshire Council.
 - The application Ref DM/1083/15/FUL, dated 10 November 2016, was refused by notice dated 15 April 2016.
 - The development proposed is erection of children's swings.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of children's swings at Spiders Web, Carr Lane, Grimsby, North East Lincolnshire, DN32 8LN in accordance with the terms of the application, Ref DM/1083/15/FUL, dated 10 November 2016, subject to the following conditions:
 - 1) The play equipment hereby approved shall only be used between the hours of 10:00 and 20:00 daily.
 - 2) This decision relates only to the development identified on the following plans:
 - Site Location Plan OI931965.
 - Block Plan OI931964.
 - Play Apparatus Elevations SW 101-A3.

Main Issue

2. The main issue is the effect of the development upon the living conditions of occupants at No 10 St Mary's Close in terms of noise and disturbance and privacy.

Reasons

3. The appeal proposals relate to a retrospective application for the retention of children's play apparatus. This comprises of two separate timber structures of swings, slides and Wendy Houses on raised platforms. The equipment is located in a rear garden area serving the Spiders Webb Public House. This is a grassed area which is fenced off from the adjacent car park. It also contains a number of picnic benches to enable customers to occupy this outside area.
 4. The equipment is located in close proximity to the flank elevation of No 10 St Mary's Close, a 2 storey dwelling which is located to the rear boundary of the Public House, separated by a tall boundary fence. Vegetation runs alongside this boundary, within the appeal site.
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5. By virtue of its proximity to No 10, I accept that the play equipment would be likely to give rise to an increase in noise from users of the apparatus. However, the nature of the structure is as such that any noise and disturbance is likely to be intermittent. In addition, the area in which the equipment is located is already used as an outdoor facility for the Public House.
6. Accordingly, while the noise of children playing might still be greater than it would be if they were all playing at ground level in the garden in general, it is unlikely that the development would result in any significant increase in noise disturbance to No 10. I am also mindful that the use of the equipment could be restricted by a suitable condition in order to further limit the noise from this at unsociable hours.
7. The equipment is positioned directly adjacent to the side elevation of No 10 and the raised platforms are located at a height of around 1.3 and 1.5 metres above ground level. However, direct overlooking into this dwelling is prevented by the obscured glazing of the windows serving this elevation.
8. Furthermore, while the larger of the two apparatus is located beyond the rear elevation of the dwelling, No 10 has been extended at ground floor level and as such the development is located alongside the blank facing wall of this extension, beyond the shared boundary. I saw that only oblique views are gained into the rear garden area, and that these are limited by the tall vegetation.
9. The vegetation was in leaf at the time of my visit and this would vary seasonally, however again, due to the nature of the equipment, any overlooking is likely to be occasional and, at the time of year when oblique views into the rear garden are likely to be greater, less frequent. I therefore consider that the extent of harm caused by the overlooking would not be sufficient to find against the development.
10. As such, I conclude that the effect of the development on the living conditions of neighbouring occupiers at No 10 St Mary's Close is not unacceptable. The development would meet the aims of saved Policy GEN1 of the North East Lincolnshire Local Plan (2003) in respect of the suitability of the development in terms of impacts upon neighbouring land uses by reason of noise, disturbance or visual intrusion.

Other Matters

11. The Council consider that there would be no harm to the Old Clee Conservation Area nor to the setting of nearby listed buildings, in accordance with saved LP Policy BH1. Having visited the site I have no reason to dispute their conclusions.

Conditions

12. In addition to specifying the approved plans, for clarity, I have conditioned the hours of use of the play equipment for the reasons as cited above.

Conclusion

13. For the reasons given, and taking into account all other matters raised, the appeal succeeds.

C Searson
INSPECTOR