
Appeal Decision

Site visit made on 15 August 2017

by Andrew McCormack BSc (Hons) MRTPI

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

Decision date: 14 September 2017

Appeal Ref: APP/M2515/D/17/3179653

23 Hunt Lea Avenue, Lincoln LN6 7UZ

- 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 Carol Clifton against the decision of Lincoln City Council.
 - The application Ref 2017/0397/HOU, dated 12 April 2017, was refused by notice dated 12 June 2017.
 - The development proposed is construction of a single storey building in the garden of the applicant's house.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The appeal scheme is a resubmission of a previous proposal, application Ref: 2016/1191/HOU which was refused by the Council. The appeal proposal reflects some changes to the previous proposal as a result of the refused application. Notwithstanding this, whilst I have had due regard to the previous application, I have assessed the proposal before me on its own merits and circumstances and determined the appeal accordingly.

Main Issues

3. The main issues are:
 - the effect of the proposed development on the character and appearance of the surrounding area; and
 - whether the proposal would be safe from flooding.

Reasons

Character and appearance

4. The appeal site is situated in the rear garden of 23 Hunt Lea Avenue and is bounded to the north, east and west by established residential properties. To the south is the Boutham Catchwater Drain, the river bank of which serves as a public right of way. Furthermore, the site lies within Flood Risk Zone 3, according to the Environment Agency (EA) Flood Maps.
5. The proposed development would extend to almost the full width of the rear garden and to a depth of about 6 metres from the rear boundary. As a result, it would occupy a significant area of the existing garden space at the property. Furthermore, I find that it would appear as a much larger building than any other

structure in the surrounding gardens. Whilst I acknowledge that the proposed building would be single storey, its overall height to the roof ridge of the proposed building would be about 3.2 metres. This would be significantly higher than the boundary fencing between adjacent properties which is around 1.8 metres in height. As a result, I find that the proposal would inevitably have a significant visual impact on the character and appearance of its surroundings, particularly in the context of domestic gardens.

6. I note the appellant's point that other sheds and outbuildings are present in surrounding garden areas and also the appellant's claim that these are not dissimilar to the proposed building. However, from the submitted drawings, I find that the proposed building would be substantially larger than other nearby sheds and outbuildings, including the existing shed on site. The appellant states that the existing wooden shed measures 3.0 metres by 6.0 metres. I note from the submitted floor plan drawing for the scheme before me that the proposed building would measure 6.8 metres by 5.5 metres, excluding the protected courtyard area. The appellant states that the floor area of the proposed building has been reduced by around 20%. Notwithstanding this, I find that the proposal would be significantly larger than the existing shed on the appeal site.
7. As a result, from what I have seen and read, I find that due to its size, position, height and extent within the existing plot, the proposed development would be incongruous and out of keeping with the character and appearance of its surroundings. It would be a substantial structure in an area where a building of such size would not be expected and it would result in the loss of a significant area of garden from the host property. Therefore, it would be materially harmful to the character of the surrounding gardens and the visual amenity of the wider area.
8. Consequently, I conclude that the proposal would have a significantly adverse impact on the character and appearance of the surrounding area. It would therefore be contrary to Policy LP26 of the Central Lincolnshire Local Plan. Amongst other matters, this policy seeks to ensure that development has no significant detrimental effect on the character or appearance of its locality.

Flood risk

9. The proposed building would be situated within Flood Risk Zones 2 and 3, as identified by the EA Flood Maps. As such, the site has a high probability risk of flooding. Furthermore, the response from the EA indicates that a reliance on flood resistance measures is not recommended and identifies that the scheme would not provide any safe refuge were a rapid flood event were to occur. I note that the EA has identified as a particular risk in this case, given the proximity of the proposal to the Boultham Catchwater Drain.
10. I have given careful consideration to the mitigation measures identified by the appellant with regard to flood risk. Having done so, I find that such measures would not be sufficient to outweigh the significant risk of flooding identified by the EA Flood Maps and with regard to the safety of future occupiers of the proposed building. Furthermore, I have given significant weight to the fact that a reliance of flood resistance measures would be contrary to the advice and recommendations of the EA in this case.
11. Having had due regard to the evidence before me, I have seen nothing to persuade me that mitigation measures would be acceptable in the particular circumstances of this case and would warrant taking a contrary view to the EA. As a result, I find that by being located in an area with a high probability of flooding which is potentially susceptible to a rapid flood event, the proposal would put future

occupiers of the building at significant risk. Therefore, on balance and based on all I have seen and read, I find that the proposal would be unacceptable.

12. Consequently, I conclude that the proposed development would be at significant risk of flooding and it would not provide a safe refuge in a rapid flooding event. As a result, future occupiers of the proposed building would be put at significant risk. It would therefore be contrary to Policy LP14 of the LP and the relevant sections of the National Planning Policy Framework. Amongst other matters, this policy and guidance seeks to ensure that development is not placed in locations of significant flood risk.

Other considerations

13. I acknowledge that the neighbouring occupiers at Nos 21 and 25 Hunt Lea Avenue did not object to the proposal. However, a lack of objection does not automatically lead to the approval of a scheme. One of the purposes of the application and appeal process is to seek to protect the amenity of existing and future neighbouring occupiers. As a result, with regard to privacy and overlooking, I find that the mitigation measures identified through existing hedges and trees surrounding the appeal site do not carry any significant weight as most of these are outside the curtilage of the appeal property and therefore are not within the control of the appellant.
14. The proposal would significantly reduce the amount of useable garden space at the appeal property. Although this may be considered adequate and acceptable by the appellant, it would be uncharacteristic within its context and, in my view, would be detrimental to the residential amenity of future occupiers of the host property and the proposed building.
15. I have had due regard to the outbuilding at 1 Hunt Lea Avenue, as referred by the appellant. I note from the evidence that consent was given for ancillary purposes to the host property with a condition attached to prevent the building from becoming a separate annexe in the future. In addition, I note that planning permission in that case was granted prior to the changes in policy context relating to the relatively recent adoption of the LP. Notwithstanding this, I do not have the full details of that scheme before me and in any event, as I have stated, I must assess the appeal proposal on its own merits and circumstances and I confirm that I have done so.
16. Finally, I have given due consideration and weight to the personal circumstances of the appellant with regard to the purpose of the proposed building in providing care for a family member. However, having done so and considered all other identified benefits of the proposal, I find that these matters would not, either individually or cumulatively, outweigh the significant harm which I have identified.

Conclusion

17. For the above reasons, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

Andrew McCormack

INSPECTOR