



Appeal Decision

Site Visit made on 21 December 2020

by Graham Wraight BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 January 2021

Appeal Ref: APP/B2002/W/20/3258040

59 Cheapside, Waltham, Grimsby, DN37 0HE

- 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 Glover against the decision of North East Lincolnshire Council.
 - The application Ref DM/0759/19/FUL, dated 12 July 2019, was refused by notice dated 23 July 2020.
 - The development proposed is to erect a residential development of three bungalows with associated access and boundary treatments - Resubmission of DM/0735/17/FUL.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on (i) living conditions, with particular reference to overlooking and outlook and (ii) the Buck Beck and the risk of flooding.

Reasons

Living conditions

3. The window to bedroom 2 of the proposed dwelling on plot 1 would face towards the private rear garden area of the adjacent dwelling, 53 Cheapside, and would be in close proximity to the common boundary, thus allowing unrestricted and intrusive overlooking to occur and resulting in harm to the living conditions of its occupiers.
4. Whilst the appellant has indicated that the window in question could be obscurely glazed, this would be a poor design solution on a newly built dwelling to serve a room such as a bedroom where future occupiers could expect a reasonable outlook. Furthermore, when open, the window would still allow for unrestricted and intrusive views over the garden of the neighbouring property. Fixing the lower section of the window to prevent it from opening would address this overlooking concern but would further worsen the living conditions for the occupiers of this proposed dwelling. In this respect therefore the proposal would fail to provide acceptable living conditions for the future occupiers of the dwelling on plot 1.
5. I acknowledge that the proposal was recommended for approval by the Council's Planning Officers and that in the Committee Report it was considered

that the obscure glazing of the bedroom window of plot 1 below a height of 1.7 metres from room floor level would be acceptable to overcome the overlooking issues that would arise. However, in my judgement this would not be a satisfactory arrangement, for the reasons that I have outlined.

6. The distances proposed between the new dwellings and all of the site boundaries, and the existing dwellings beyond them, would be adequate to ensure that no harmful overlooking would occur, even noting that the appeal site is located on a higher ground level than the existing dwellings on Cheesemans Close. Furthermore, the distances of the proposed dwellings from the nearest dwellings together with their proposed height would ensure that they would not have a harmful impact on the outlook of the occupiers of the adjacent existing dwellings.
7. Previous planning permissions on the appeal site have carried a planning condition restricting the use of upper floors for living accommodation. However, this does not preclude the appellant from subsequently submitting an alternative proposal for consideration. In determining this appeal, I must have regard to the proposal that is before me and make my assessment upon its own individual merits.
8. For these reasons, I conclude that the proposed positioning of the window to bedroom 2 of the dwelling on plot 1 would cause unrestricted and intrusive overlooking onto the rear garden area of the adjacent dwelling, resulting in harm to the living conditions of the occupiers of that dwelling. This could not be reasonably overcome in a manner that would not in turn cause harm to the living conditions of the future occupiers of this proposed dwelling. Whilst I do not find that any other harm to living conditions would arise, this harm alone means that the proposal would not accord with Policy 5 of the North East Lincolnshire Local Plan 2018 (LP), where it seeks to protect living conditions.

Impact on the Buck Beck and flooding

9. The planning application was accompanied by a number of technical reports, including in relation to drainage calculations and how a section of the beck would be reinforced. The consultation response from the Senior Drainage Engineer and Drainage Engineer is clear that this would result in a discharge rate lower than the greenfield run-off rate and that the proposed point of discharge into the Buck Beck is not deemed to create a detrimental impact on the integrity of the beck or the flow rates within it. They consider therefore that the proposal would not increase the risk of flooding either on or off the site.
10. Furthermore, they have considered the proposed works to the section of the beck, noting its intention to ensure that the proposal would not harm the structural integrity of the bank and that the proposed method of reinforcement is similar to that used on another site. They also note that the Buck Beck flows in a relatively straight line in the area where the works would take place and therefore is not in an area of high risk of erosion. Finally, they consider that the design of the foundations could be controlled by way of a planning condition, and they raise no concern that foundations could not be designed that would be acceptable given the constraints of the appeal site.

11. With respect to the 6 metre easement that is referenced, they also confirm that this relates to access to the beck for machinery, and that this figure does not relate to the potential impacts on the structural integrity of the watercourse. Their comments on the technical documents and their conclusions on the impact that would arise upon the Buck Beck and flood risk carry significant weight.
12. The appellant states that the proposed works to the bank of the beck would have a lifespan of 75 years. This, coupled with the comments of the Senior Drainage Engineer and Drainage Engineer regarding the current condition of the similar solution which has been used on another site and which has been in situ for around 10 years, offers a reasonable level of certainty that the proposed works would provide an appropriate long-term approach. Interested parties have raised concern that the remaining trees which line the beck could be removed, but I have nothing before me to suggest that this would be the case.
13. I have had regard to the Inspectors findings set out in the decision for the previous appeal (APP/B2002/W/18/3195839) and to the information I have which suggests that further details have now been provided to address the reasons why the previous appeal was dismissed. In any event, I must determine the current appeal primarily upon its own merits and I have set out that the technical information before me, in conjunction with its review by the drainage engineers, is persuasive that there would not be harm to the Buck Beck or from the risk of flooding. As there is no substantive evidence before me to counter this, I conclude that there would not be harm caused in this respect by the proposed development.
14. Reference has been made in a number of representations from interested parties as to instances of flooding that have previously occurred in Waltham. However, the matter before me relates to the impact that the proposed development would have, and I must determine the appeal on that basis.
15. For these reasons, I conclude that the proposed development would not harm the Buck Beck or increase the risk of flooding on or off the site. Therefore, the proposal would accord with Policies 5 and 33 of the LP, where they refer to flood risk.

Conclusion

16. I have found that the proposal would not cause harm to the Buck Beck or from flooding, nor would there be harm to living conditions in most respects. However, the proposed arrangements for bedroom 2 of the proposed dwelling on plot 1 would be unsatisfactory for the reasons I have outlined. This would result in a failure to provide acceptable living conditions for the occupiers of this dwelling and a subsequent conflict with the development plan. Therefore, the appeal should be dismissed.

Graham Wraight

INSPECTOR