



Appeal Decision

Site visit made on 20 April 2021

by C McDonagh BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 May 2021

Appeal Ref: APP/B2002/W/20/3264854

Rear of 59 Cheapside, Waltham DN37 0HE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by Mr Herby Glover against the decision of North East Lincolnshire Council.
 - The application Ref DM/0265/20/REM, dated 25 March 2020, sought approval of details pursuant to condition No 2 of a planning permission Ref DM/0148/17/OUT, granted on 28 April 2017.
 - The application was refused by notice dated 10 November 2020.
 - The development proposed is the design of the proposed dwellings and all associated works.
 - The details for which approval is sought are: access, appearance, landscaping, layout and scale.
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Decision

1. The appeal is allowed, and the reserved matters are approved, namely access, appearance, landscaping, layout and scale details submitted in pursuance of condition No 2 attached to planning permission Ref DM/0148/17/OUT granted on 28 April 2017, subject to the conditions set out in the Schedule at the end of this decision.

Application for costs

2. An application for costs was made by Mr Herby Glover against North East Lincolnshire Council. This application is the subject of a separate Decision.

Main Issue

3. The main issue is the effect of the proposal on Buck Beck, with regard to surface water drainage and flood risk.

Reasons

4. The appeal site is located to the rear of No.59 Cheapside. It is bound by No.59, residential gardens to either side and Buck Beck. Several dwellings on Cheeseman's Close also border the beck to the other side, which is the main drainage channel for the area. This has been subject to both formal and informal strengthening of its banks over the years. This was evident on my site visit, with tyres, fencing and other items used in this manner.
5. Outline planning permission was granted to demolish commercial outbuildings and erect 3 dwellings under application reference DM/0148/17/OUT (the outline

- permission). Under the outline permission all matters were reserved for future consideration. The proposed layout plan confirms the 3 bungalows would be located towards the rear of the site in a linear arrangement facing the access from Cheapside albeit offset from one another.
6. The appeal site is located within Flood Zone 1, which is the lowest risk area for flooding. However, I note the concerns of the Council and occupiers of nearby properties with regard to the increased surface water levels and potential damage to Buck Beck, the banks of which are considered to be in poor condition and unstable.
 7. The Council has provided a map of surface water flooding from the beck and I understand there was a flooding event which affected several properties nearby in 2007. Given this unfortunate incident, I appreciate the concerns of local people in this regard. However, the Council drainage officer states that the proposed drainage strategy for the development would result in a discharge rate of 1.3 litres per second maximum, which is lower than both the existing site rate of 2.3 litres per second maximum and an equivalent greenfield site. Moreover, the location of discharge into the beck would not cause a detrimental impact on the integrity of the beck or the flow rates within it.
 8. Furthermore, there is agreement from the drainage officer that the strengthening works to the banks of the beck would not harm its structural integrity, including where it meets the rear of No.53 Cheapside. While the works would be to a stretch of 8.6m rather than the whole bank where it borders the site, this section is relatively straight, and it is not considered at a high risk of erosion. While there is concern this could increase flood risk elsewhere, there is nothing before me to substantiate this, especially in light of the decreased surface water discharge rate.
 9. I note the concerns of some local residents that the removal of trees and activity during the construction phase of the development could cause harm to the structural integrity of the beck. However, the plans indicate 80% of trees within the site will be retained with some removed due to their condition. I did observe some trees to be in poor condition and I note this is agreed by interested parties. The appellant has prepared a tree protection plan to safeguard the remaining trees which can be secured by condition, while replacement tree planting and erosion control matting on the top surface would be used to further strengthen the bank. Moreover, the nearest plot to the beck has been moved to a distance of at least 6m. This distance has previously been advised to allow machinery to access and maintain the beck itself. Furthermore, the design of the foundations of the proposed dwellings can reasonably be dealt with through the approved plans and the building regulations.
 10. Overall, the proposed strengthening works to the banks of the beck would have a lifespan of 75 years. This would indicate an appropriate long-term approach and I note this is agreed by the drainage officer. As such, from the evidence before me, it is clear there would be no increased risk of flooding on the site or to areas nearby as a result of the proposal.
 11. For these reasons, the proposed development would not have an adverse effect on Buck Beck with regards to increased surface water and flood risk. Accordingly, the scheme would comply with Policies 5 and 33 of the North East Lincolnshire Local Plan (Adopted 2018). These policies seek to ensure

development has regard to flood risk, is safe during its lifetime and Sustainable Drainage Systems (SuDS) have been incorporated into the development.

Other Matters

12. Representations by local residents have questioned the need for fencing along the rear boundary of the proposed properties. However, there is no indication of why this is inappropriate, and fencing along a boundary of a residential property would not appear unusual. As such I have no reason to dispute this aspect of the site design.
13. There is also concern as to the possibility of a loss of privacy due to overlooking of neighbouring properties from the bungalows. However, the proposed dwellings are single-storey and are positioned a suitable distance from existing properties to avoid overlooking. Moreover, permitted development rights to extend or alter the roofs of the proposed dwellings were removed through a condition attached to the outline permission.
14. Some representations claim there are inaccuracies in some of the plan drawings, particularly with regard to the boundary of the site. However, there is nothing before me to substantiate this and I note this was not raised as an issue by the Council. Furthermore, the maintenance of a manhole within the garden of No.59 would not be a matter of consideration for this appeal.

Conditions

15. A condition is necessary in the interests of certainty to ensure that the development is carried out in accordance with the approved plans. This includes foundation details which were suggested as a separate condition, to avoid duplication. A condition to secure the external materials is necessary in the interests of appearances of the dwellings.
16. Given the nature of the development I have also included conditions requiring the adherence of details agreed for surface water drainage and strengthening works to Buck Beck as part of the development as well as in future for any maintenance works required.
17. I note some remediation work in relation to contamination has already been undertaken. On this basis the Council's Environmental Health Officer considers the site is acceptable for development. However, I would agree that it is necessary to include a condition to set out the required steps in relation to contaminated land discovered during construction in order to protect future users.
18. Further conditions for the implementation and subsequent maintenance of the landscaping scheme set out in the approved plan and to ensure that the proposed development would make appropriate arrangements for water efficiency are necessary to meet the requirements of the development plan in these regards. Details of the bin storage area are required to be submitted for agreement by the Council to ensure sufficient waste management for the new dwellings
19. A condition to remove permitted development rights as detailed in the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any statutory amendment thereto), to ensure no development is undertaken under Schedule 2 Part 1, Classes A, B, C and E was suggested by

the Council in order to protect the living conditions of occupiers of nearby properties. However, I note a similar condition was added to the outline permission removing permitted development rights for extensions to the roofs of the proposed dwellings under classes B and C. The suggested condition duplicates these elements unnecessarily. There is no justification before me to further restrict permitted development rights under classes A and E and as such, I have not attached this condition.

Conclusion

20. I have found that the proposal would not adversely affect Buck Beck. As such there would be no increase in the risk of flooding within the appeal site or to nearby dwellings. As such, the proposal accords with the development plan taken as a whole and, for the reasons given, I conclude that the appeal should be allowed.

C McDonagh

INSPECTOR

Schedule of Conditions

1) The development hereby permitted shall be carried out in accordance with the following approved plans:

RD3962-17 Proposed site layout
RD3962-21A Layout and Cross Section
RD3962-18 Plot 1 Plans and elevations
RD3962-19 Plot 2 Plans and elevations
RD3962-20 Plot 3 Plans and elevations
RD3962-07A Site location plan
RD3962-23 Tree protection
RD3962-22 Proposed Access Plan
RD3962-25 Proposed foundations
1115-1163-CIV-30-P2 External Works
1115-1163-CIV-40A Access construction details
TR20-3317 RSS Cross Section erosion detail plan

2) The external surfaces of the development hereby permitted shall be constructed in the materials as detailed in the Materials Schedule (dated 6th March 2020).

3) Prior to the occupation of any dwelling hereby permitted, the development shall be built out in accordance with the surface water details on plan ref: 1115-1163-CIV-10 (rev P10).

4) Prior to any construction works or ground works for the construction of the hereby permitted development, the erosion control scheme for the bank of Buck Beck, as detailed on plan ref: RD3962-17 and TR20-3317_RSS - V1 (reinforced soil slope) including the landscape planting, shall be fully completed.

5) The measures detailed in the Construction Management Plan (dated 31st March 2020) shall be adhered to at all times during the construction of the development.

6) Access arrangements to Buck Beck, as shown on plan ref: RD:3962-22, shall be provided at the request of the Local Planning Authority in order to undertake maintenance and repair work.

7) No soil is to be imported to the site unless or until it has been tested for contamination and assessed for its suitability for the proposed development; a suitable methodology for testing this material should be submitted to and agreed by the Local Planning Authority prior to any soils being imported onto site.

8) If during redevelopment contamination not previously considered is identified, then the Local Planning Authority shall be notified immediately and no further work shall be carried out until a method statement detailing a scheme for dealing with the suspect contamination has been submitted to and agreed in writing with the Local Planning Authority. All remediation shall be undertaken in accordance with the details approved.

9) All planting, seeding or turfing comprised in the approved details of landscaping in plan ref RD3962-17 shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously

damaged or diseased shall be replaced in the next planting season with others of similar size and species.

10) The development shall be built out in accordance with the Water Use Calculations (dated March 2020).

11) Prior to the first occupation of any dwelling on the site details of a bin storage area for collection days shall be agreed in writing by the Local Planning Authority. The then approved bin store shall be constructed and made available for use prior to any of the dwelling being first occupied.