



Appeal Decision

Site visit made on 16 November 2021

by David Spencer BA(Hons) DipTP MRTPI

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

Decision date: 10 December 2021

Appeal Ref: APP/V2635/W/21/3276522

'Mary Ann', 58 South Beach, Heacham, Norfolk PE31 7LH

- 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 Claire Gill against the decision of King's Lynn and West Norfolk Borough Council.
 - The application Ref 20/01854/F, dated 23 November 2020, was refused by notice dated 22 April 2021.
 - The development proposed is demolition of existing and provision of replacement dwelling and all ancillary works.
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Decision

1. The appeal is allowed, and planning permission is granted for the demolition of existing and provision of replacement dwelling and all ancillary works in accordance with the terms of the planning application Ref 20/01854/F, and the schedule of conditions appended at the end of this decision.

Main Issues

2. The main issues in this appeal are firstly, the effect of the proposed replacement dwelling on the character and appearance of the surrounding area, and secondly, the effect of the appeal proposal on the living conditions of the occupiers of No.59 South Beach, with particular reference to outlook, daylight and privacy.

Reasons

Character and Appearance

3. The appeal location comprises a large site to the south of the main public access at Heacham South Beach where a single private access road serves a notable number of holiday properties. These dwellings are separated from the beach to the west by a bank of dunes. To the south and east are grazing marshes. The wider 'South Beach' site is shaped such that development at the northern end of the site is densely arranged on both sides of the access road before the site opens out in its southern half where the properties are more sparsely arranged around a broad open area of grassland. Accordingly, there are two distinct characters at the wider appeal location. The appeal site is in more tightly arranged northern part of the 'South Beach' site.
4. There is considerable variety to the scale, standard and detailed appearance of the properties at 'South Beach'. The prevailing scale of development is either single storey or 1½ storey chalet style dwellings. There are a small number of recent 2 storey properties but given the height and scale of some of the 1½

storey properties these 2 storey dwellings are not conspicuously larger or more dominant structures in the informal street scene. The current property on the appeal site at No.58 South Beach is a squat, low-profile single storey prefabricated building of generally poor quality, such that its appearance and scale is now in contrast to that of surrounding properties.

5. The proposed scale and massing of the replacement dwelling reflects the need to raise habitable accommodation in an area of flood risk. The proposed height of the ground floor level would provide a reasonable clearance for the proposed under-croft vehicle parking and adequate headroom for future occupiers. The proposed ground floor height would not be excessive. Whilst the proposed 2 storey replacement dwelling would be taller than neighbouring properties it would represent only a moderate increase, with the overall massing of the building tempered by the design of the shallow roof pitch. In many perspectives, including from the public beach to the west and from within the private access road, the proposed dwelling would provide for a gentle graduation and variety in building heights. It would be broadly comparable in scale and appearance to some chalet style properties in this 'South Beach' site, including examples that have prominent first floor balconies overlooking the dunes.
6. The proposed replacement dwelling would be broadly positioned on the footprint of the existing building thus maintaining comparable separation to adjoining properties. It is recognised that plot sizes in this part of 'South Beach' are shallow in depth and more tightly arranged, as described above. The proposed replacement dwelling, however, would maintain an appropriate building line with a similar set-back from the access road. Notwithstanding the increase in height and the proximity to the boundary with the plot at No.59 South Beach, appropriate gaps would be maintained around the building maintaining the rhythm and pattern of properties on this part of the 'South Beach' site. Overall, the design and appearance of the proposed property would complement what appears to be a transitioning character to modernise the standard of holiday accommodation, including improved flood resilience.
7. The appeal proposal must be determined on the plans submitted, rather than speculation about how the dwelling could be occupied in the future, including the proposed ground floor arrangement. This level includes two parking areas for vehicles, a bathroom and two modest storage areas. I do not find this level of provision to be excessive in terms of supporting the future occupation of the building, including storage for items such as bicycles and beach paraphernalia. Any planning permission would be subject to conditions, including a requirement to be implemented in accordance with the approved plans and a separate condition requiring compliance with the submitted Flood Risk Assessment. Such conditions would meet the tests of being enforceable, precise and reasonable in all other respects.
8. I therefore conclude that there would be no significant harm to the character and appearance of the surrounding area resulting from the appeal proposal. The proposal would be consistent with Policy CS08 of the King's Lynn and West Norfolk Local Development Framework Core Strategy 2011 (*the Core Strategy*) and Policy DM15 of the Site Allocations and Development Management Policies Plan 2016 (*the SADMPP*). These policies seek to ensure that development should be of high quality design, including, amongst other things, responding to the local context and character and being of a scale, height, massing,

materials and layout that responds sensitively and sympathetically to the local layout including spaces between buildings. It would also accord with the design objectives set out in the National Planning Policy Framework (NPPF), including those at paragraph 130 which require development to function well, add to the overall quality of the area over the lifetime of the development, to be visually attractive, to be sympathetic to local character (whilst not discouraging appropriate innovation or change) and to maintain a strong sense of place.

Living Conditions

9. As described above, properties at the appeal location are more tightly arranged on their plots in this part of 'South Beach'. This is particularly the case on the western side of the access road when entering the site, including the plot at No.58 and its neighbours. Here the plot depths are notably constrained by the sand dunes to the west and a small set-back of the properties from the access road. Consequently, there is limited flexibility to position properties in their plots. This results in a relatively uniform layout and depth of development, albeit with some marginal differences in the gaps between properties. There would be an appreciable gap maintained to the property to the south of the appeal site such that there would be no adverse impact on outlook or light levels to this dwelling.
10. To the north of the appeal site is the chalet property at No.59 South Beach. This single level property is raised on a plinth structure such that it is currently appreciably higher than the existing dwelling at No.58. It also moderately projects beyond the existing rear elevation of No.58 towards the dunes. The internal layout of No.59 involves a large living space with kitchen area at the rear of the property. Whilst this area includes a window at the sink facing directly towards No.58 this living space is served by other openings, including on the elevation towards the dunes and beach. As such, whilst the appeal proposal would moderately affect morning light levels to this room and the outlook from the kitchen area window, other openings in this room mean there would be no significant harm to either the overall natural light levels or outlook in this room. Elsewhere at No.59, there would be no significant harm to either the outlook or light levels through the obscure glazing to the WC and shower room or from the bedroom nearest No.58 where the window faces east and not to the appeal site to the south.
11. The main access to the property at No.59 is via a flight of external steps and raised terrace along its southern elevation which directly abuts the boundary with No.58. Whilst this terrace area also wraps around the rear of No.59 the widest area for sitting out is on the southern elevation close to the main side door entrance. Notwithstanding the adjacent beach to the west beyond the dunes, due to the modest size of the plots, this terrace area provides the principal usable external amenity space for the occupiers of No.59.
12. Due to the proposed position, proximity and height of the proposed replacement dwelling immediately to the south, the external terrace area to the south of No.59 would be placed into periods of overshadowing during the first part of the day, albeit predominantly in winter months. Due to the relatively shallow pitch of the proposed roof of the replacement dwelling, the proposed eaves height relative to the terrace level and the modest degree of separation of the proposed dwelling to the boundary with No.59, the replacement dwelling

would not have an overbearing impact for users of the terrace. Additionally, when taking these factors into account, in combination with the height and trajectory of the sun in the high occupancy summer months, any overshadowing of the terrace and kitchen area window would be modest and likely confined to a limited period in the early morning.

13. The open outlook from the terrace to the south-east with long range views to Ken Hill would be lost. Nonetheless, a notable proportion of the terrace area at No.59 would project beyond the proposed rear elevation of the replacement dwelling. As such an open aspect to the south-west across the dunes and towards The Wash would be retained for a large proportion of the terrace area. Furthermore, the wider open aspect to the west to the coast would not be affected. Accordingly, for significant parts of the day, the terrace area and kitchen area window would receive good levels of sunlight at those times of the year coinciding with high occupation. Moreover, both the property and terrace at No.59 would retain a good standard of outlook towards the coast, which is the principal environmental attractor at 'South Beach'.
14. Turning to matters of privacy. No windows are proposed on the flank elevation facing No.59. The proposed rear balcony would have open side elevations parallel to the rear terrace at No.59 such that there would be a high degree of inter-visibility. The submitted plans show a glass balustrade but a more robust degree of obscure glazing would be required to maintain respective privacies. This mitigation would be effective and could be secured by condition.
15. I therefore conclude that the appeal proposal would not result in a significant adverse impact on the living conditions of the occupiers of No.59 South Beach, with particular reference to outlook, daylight and privacy. The appeal proposal would therefore conform with the amenity objectives of Core Strategy Policy CS08 and SADMPP Policy DM15. Overall, a sufficient standard of amenity would be preserved at No.59 in accordance with NPPF paragraph 130(f).

Other Matters

16. The appeal site is in Flood Zone 3 and the Coastal Flood Risk Hazard Zone. The appeal proposal would extensively modernise and raise what is currently a vulnerable, low-profile building in a high-risk area, without materially increasing the total habitable floorspace. In flood risk terms it would represent a significant improvement on how the appeal site can lawfully be used, including securing all habitable accommodation above ground floor level. This would also include compliance with measures identified in the Flood Risk Assessment (FRA) that accompanied the proposal. Additionally, an occupancy condition would ensure that the replacement dwelling would not be occupied during the more vulnerable winter months (October – March). On this matter I also attach significant weight to the absence of objection from the Environment Agency and the Borough Council's Emergency Planning Officer. Overall, the proposal would accord with Policy DM18 of the SADMPP and paragraphs 159-168 of the NPPF.
17. Concerns have been raised that the appeal proposal would result in a design and scale of dwelling more suitable for permanent occupation. Policy DM5 of the SADMPP deals with replacement dwellings in the countryside and in light of my conclusions on the two main issues in this appeal, the proposed dwelling, would also accord with the general requirements of this policy. It is recognised that the appeal location is environmentally sensitive including proximate

nationally significant protected habitats and dark skies. However, any potential impact from the appeal proposal would be curbed by the seasonal occupancy condition for flood risk and by the fact that as a replacement dwelling it would not be introducing net new human activity at the appeal site. I attach significant weight to the absence of objection on the planning application from Natural England, the statutory advisor on biodiversity matters.

Conclusions and conditions

18. Overall, I have found the proposed replacement dwelling would not result in any significant harm to the character and appearance of the surrounding area. I have found that there would be some minor harm arising from loss of outlook and overshadowing during part of the day at No.59, however, this would not amount to a significant adverse impact which would justify the refusal of planning permission. I have taken into account all other matters raised, but there is nothing that leads me to conclude other than that the appeal should be allowed.
19. The Local Planning Authority (LPA) officer report to the Planning Committee on 12 April 2021 suggested a number of conditions, which the LPA has confirmed it considers necessary were the appeal to be allowed. I have considered the suggested conditions in light of the content of the Planning Practice Guidance on the use of conditions and the guidance at paragraph 56 of the NPPF and where necessary amended the wording slightly for comprehension.
20. In addition to the standard time limit condition, a condition requiring the development is carried out in accordance with the approved plans is needed in the interests of proper planning and for the avoidance of doubt. Given the very high risk of tidal flooding a number of conditions are necessary to ensure the safe occupation of the replacement dwelling. This includes a condition limiting occupancy to those months where the risks associated with the seasonality of the highest astronomical tides, storm surges and wave action severity are decreased. Given the severity of the flood risk, it is necessary to impose a condition requiring the replacement dwelling to incorporate the flood risk mitigation measures identified in the appellant's submitted FRA and to occupy the dwelling in accordance with the appellant's Flood Resilient Measures document and Flood Warning and Evacuation Plan.
21. Whilst the PPG¹ cautions against the removal of permitted development rights, I am satisfied given the coastal character, the very high flood risk and the proximity of nearby properties at the appeal site that it would be necessary to impose such a condition. The condition would remove permitted development rights as they pertain to extensions, roof alterations and ancillary structures and means of enclosure within the curtilage. This would be a proportionate approach. Additionally, given the proximity of adjoining properties and the proposed height of the first-floor balcony to the rear of the proposed dwelling, a condition is necessary to ensure that the glazed side elevations of the balcony are sufficiently tall and appropriately obscure glazed to protect the privacy of the occupiers of adjoining dwellings.

David Spencer

Inspector.

¹ Paragraph: 017 Reference ID: 21a-017-20190723

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
2013.PL.01 Location Plan
2013.PL.02 Proposed Plans, Sections, Elevations and Block Plan
2013.PL.03 Proposed Site Section and Elevations
- 3) The dwelling hereby permitted shall only be occupied between 1 April and 30 September in any given year.
- 4) The development hereby permitted shall be completed and retained thereafter in accordance with the mitigation measures identified in the submitted Flood Risk Assessment (FRA) written by Geoff Beel Consultancy, dated 23 November 2020. In particular, the FRA states that:

Finished floor levels will be set no lower than 7.32m AOD

Flood resistance and resilient measures shall be incorporated into the design.

There will be no habitable ground floor accommodation.
- 5) The development hereby approved shall be carried out in accordance with the Flood Resilient Measures document dated 23 November 2020 submitted with the application unless otherwise agreed in writing by the Local Planning Authority. Once implemented the agreed measures shall be retained thereafter.
- 6) The development hereby approved shall be carried out in accordance with the Flood Warning and Evacuation Plan written by Geoff Beel Consultancy dated November 2020 unless otherwise agreed in writing by the Local Planning Authority.
- 7) Notwithstanding the provisions of Schedule 2, Part 1, Class A, B and E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), the enlargement, improvement or other alteration to the dwelling house, the enlargement of the dwelling house consisting of an addition or alteration to its roof or the provision within the curtilage of the dwelling house of any building or enclosure, swimming or other pool shall not be allowed without the granting of specific planning permission.
- 8) Notwithstanding the details on the approved plan, prior to the first occupation of the dwelling hereby approved, 1.8 metre high obscure glazing shall be erected along the north and south side elevations of the proposed balcony shown on dwg No.2013.PL.02. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the glazing is installed and once installed the obscured glazing shall be retained thereafter.

Schedule Ends.