The Planning Inspectorate

Appeal Decision

Site visit made on 28 December 2022

by G Robbie BA(Hons) BPl MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 January 2023

Appeal Ref: APP/A2525/W/21/3287664
Rear of 64 Wignals Gate, Holbeach, Spalding, Lincs PE12 7HR

- 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 T Johnson against the decision of South Holland District Council.
- The application Ref H09-1014-21, dated 24 September 2021, was refused by notice dated 18 November 2021.
- The development proposed is Residential Development.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effects of the proposed development upon:

   - The character and appearance of the surrounding area;
   - Flooding and flood risk; and
   - The living conditions of occupiers of neighbouring properties, with particular regard to noise and disturbance.

Reasons

Character and appearance

3. Wignals Gate is a residential street which runs in part along the southern edge of Holbeach. The predominant pattern of development along Wignals Gate, particularly its northern side where the appeal site is located and the stretch where it heads towards Spalding Road, is of frontage development of semi-detached houses. In the stretch of Wignals Gate between its junctions with Hall Gate to the east and the more recent residential development to the west, residential plots tend to be relatively narrow but on balance reasonably generous in their depth.

4. Although the appellant has submitted a series of historical aerial photographs showing the redevelopment and gradual erosion of the depth of these gardens, the prevailing pattern of development nevertheless essentially remains as described above. Nor has the more recent construction of residential development on the southern side of Wignals Gate fundamentally altered the prevailing pattern of development along the street where the space around, between and behind residential properties creates a sense of openness as a counterbalance to the more restricted depth of the property frontages. The area of public open space associated with the residential development on John Harrison Way, which lies to the rear of the appeal site, adds to the relatively

spacious feel, and setting, of the appeal site and contribution that it makes to the surrounding area.

5. The appeal site is a backland site, located behind existing residential properties at 64 and 66 Wignals Gate. Access to the site is taken across an open gravel forecourt and driveway between the two properties. The site opens out behind the garden plots of Nos. 64 and 66. Outbuildings of varying sizes are not uncommon at the rears of nearby properties. Indeed, there are large outbuildings at the rear of No. 66 and also within the appeal site adjacent to its western boundary with No. 68. However, despite these occupying large proportions of the respective properties' plot widths, their appearance and orientation are nevertheless generally reflective of the limited widths of the semi-detached properties and their garden plots.

6. Whilst the overall size of the proposed dwelling would not be dissimilar to existing outbuildings, its substantial pitched roof structure would mark it out as a noticeably larger building. Moreover, it would be positioned at 90° to, and thus across the plot 'width' of, the respective Wignals Gate frontage property plots, unlike the prevailing pattern of existing outbuildings. This would place the extremities of the proposed dwelling close to the rear, and both side, boundaries in a manner not typical of existing outbuildings. As a consequence, the building would also appear cramped within the confines of the site, again at somewhat at odds with the prevailing pattern of built development.

7. Thus, given the combination of its size, orientation and siting within the plot, the proposed dwelling would be bulky and incongruous, its appearance being at odds with the prevailing pattern of buildings. It would also, as a building intended for use as a separate dwelling, materially harm the domestic garden character of the surrounding area and result in a cramped form of development at odds with the more spacious garden character of the rears of properties here. It would do so in a way that the existing building, and those around it, do not.

8. The Council have not challenged the appellant's assertion that the appeal site was formerly a workshop and that, as a consequence, the proposal would amount to the redevelopment of previously developed land. Be that as it may, the harm that I have identified would be overriding and as such the proposal is contrary to Policies 2 and 3 of the '*South East Lincolnshire Local Plan 2011-2036*' (2019) (SELLP). Together, these policies seek to secure high quality design and development. Amongst other things, they require consideration be given to the size, layout and relationship of proposals to character and appearance, relationship with existing building form, existing patterns of development and to integrate sensitively within their context. For the reasons I have set out, the proposal would fail to do so.

9. Although the Council acknowledge an earlier planning permission for residential development on a plot to the rear of 72 Wignals Gate[1], this is described by the Council as being a more spacious site than the appeal site. I do not have the details of this scheme before me, but I have not been presented with any reasons to reach a different conclusion to that offered by the Council. This permission is not therefore a factor to persuade me as to the suitability of the appeal proposal in terms of character and appearance.

[1] LPA Ref No: H09-0186-18

Flooding and flood risk

10. The site lies within Flood Zone 3, an area with a high probability of flooding, but also within an area identified by the '*South East Lincolnshire Strategic Flood Risk Assessment*' (2017) (SFRA) as being of 'Low Hazard'. Policy 4 of the SELLP sets out the Council's approach to flood risk. It states that development within areas at risk of flooding will only be permitted where it can be demonstrated that there are no other sites available at a lower risk of flooding, would provide wider sustainability benefits to the community that outweigh flood risk and be supported by a site-specific flood risk assessment (FRA).

11. The National Planning Policy Framework (the Framework) states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk and sets out the approach to be taken with regard to the Sequential and Exception Tests. All forms of flooding are to be considered as part of this process.

12. The appellant's site-specific FRA notes, in its section on the application of the sequential (and exception) test, that large parts of the district lie within flood zone 3 and that opportunities to develop land at lower risk of flooding are limited. However, no consideration of any such alternative sites has been put before me by the appellant.

13. Instead, the appellant's FRA seeks to set out the case that SELLP residential allocations are within flood risk areas due to lack of alternative sites within areas of lower risk and that as the site lies within a 'Reserve Site' allocation[2] as per SELLP Policy 12, the site has already been assessed as preferential. It follows, the FRA continues, that the Sequential Test has been passed.

14. However, whilst the site lies reasonably close to a 'Reserve Site' allocation[3], it is clearly not within it. Although the SFRA identifies the site as a 'Low Hazard' location a demonstration that no alternative sites at lesser risk of flooding exist is still required by virtue of SELLP Policy 4 and its supporting text. The nature of the district and its flood risk context does not absolve an appellant from carrying out a sequential test, whilst the reliance upon the 'Reserve Site' allocations set out by Policy 12 of the SELLP is misplaced in this instance. I have not therefore been provided with compelling evidence to demonstrate that sites in less vulnerable locations could not accommodate the proposed dwelling. As such, it has not been demonstrated that the appeal proposal passes the Sequential Test.

15. Matters such as ensuring finished floor levels of the dwelling are raised above predicted flood depths, further internal flood-proofing measures within the dwelling, incorporation of appropriate external surface materials and management of surface water are all set out within the FRA, appeal statement or are capable of being dealt with by planning condition. It is also acknowledged that the site lies within the Holbeach settlement boundary and is within walking distance of the town centre. However, these do not amount to the wider community sustainability benefits required by SELLP Policy 4, the Framework or the Exception Test. Even if the Sequential Test were satisfied, the proposal would fail the Exception Test for these reasons.

[2] Cited at section 3.3 of 'Flood Risk Assessment: Final Report ECL0592/G R Merchant Ltd' – Ellingham Consulting, September 2021
[3] Hob011 as shown on SELLP Policies Map Inset Map No. 5: Holbeach

16. The appellant has not therefore provided compelling evidence to demonstrate that the proposed development would adequately and appropriately take account of flood risk. The proposal is contrary to SELLP Policies 2 and 4 and the provisions of the Framework in this respect.

Living conditions

17. The appeal site would be accessed by way of a driveway between the opposing flank elevations of Nos. 64 and 66. Although the proposal would retain sufficient space for the parking of vehicles associated with both of these properties, the access would nevertheless be close to the windows, doors and private garden spaces of these properties.

18. Whilst the Council have not challenged the appellant's statement that the site and buildings within it previously accommodated an engineering workshop, rather than being residential garden, it seems that it has been unused for some time. I have no information before me as to the previous intensity of the use of the site, or indeed the access, during that iteration of the site. However, given the stated length of inactivity, the use of the access in the manner proposal would be likely to amount to an intensification of its use.

19. However, the access would serve only a single dwelling and, at 2-bedrooms, a modest one. As such, it would be likely to have correspondingly modest comings and goings. Whilst both properties have windows and a door on each of their flank elevations, the access would be no closer to them than it is at present and so it comes down to a matter of the nature and extent of its use. As a 2-bedroom bungalow, I am not persuaded that the level of use or the nature of the access would generate levels of movement that would amount to unacceptable levels of noise or disturbance or result in material harm to the living conditions of occupiers of either neighbouring frontage property.

20. The submitted plans are annotated to show the provision of new, and retention of existing, boundary fencing between the appeal site and Nos. 64 and 66. A suitably worded condition regarding full boundary treatment details would provide additional control over such matters to ensure that adequate consideration be given to boundary treatments to mitigate the effects of passing vehicles (and pedestrians) upon occupiers of the two existing neighbouring properties. With such safeguards, the proposal would not result in material harm to living conditions and there would be no conflict with SELLP policies 2 or 3 with regard to this matter.

Other Matters

21. The appellant has pointed out that the Parish Council did not object to the proposal, citing concerns that if not developed the site would become derelict waste ground. However, the site did not appear to be in such a condition at the time of my visit to the site, nor do I have any compelling evidence before me to suggest that such a situation would transpire should the appeal be unsuccessful or that the condition of the site has been a particular cause for concern previously.

22. The absence of a Parish Council objection on these grounds is therefore a neutral matter and weighs neither in support of nor against the proposal. So too, the absence of objection to the proposal from the local highway authority on highways grounds.

23. The creation of a smaller dwelling as proposed in this instance would potentially provide opportunities for downsizing whilst also contributing to the supply of homes, whilst its proximity, within walking distance, to the town centre are factors which weigh in support of the proposal, albeit to a limited extent. In any event the principle of residential development in this location is not disputed by the Council and any support offered in this respect by SELLP Policy 1 is of limited weight in support of the scheme given my conclusions in respect of the main issues as set out above.

Conclusion

24. Although I have found that no harm would arise in terms of the proposal's effect on the living conditions of occupiers of neighbouring properties with particular regard to noise and disturbance, the appeal fails in respect of the effect on character and appearance and flood risk. For the reasons set out therefore, and having considered all other matters raised, I conclude that the appeal should be dismissed.

G Robbie

INSPECTOR