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# Appeal Decision

Site visit made on 30 August 2023

**by R Gee BA (Hons) Dip TP PGCert UD MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 16 October 2023**

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**Appeal Ref: APP/Y2003/W/23/3319164**

**Crofttholme, 22 Brewery Road, Crowle DN17 4LT**

- 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 Mrs L Brears against the decision of North Lincolnshire Council.
  - The application Ref PA/2022/1665, dated 14 September 2022, was refused by notice dated 15 December 2022.
  - The development is described as 'proposed 1 No. bungalow on existing land to the west of 22 Brewery Road, Crowle'.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. Within its Statement of Case the Council has referred to various policies within the emerging North Lincolnshire Local Plan Submission 2022. I note this plan is in the process of being examined. From the evidence before me, whilst the emerging policies do not appear to be substantially different from the saved policies, in so far as matters that are in dispute for the purpose of this appeal, given the stage of preparation and the uncertainty that these policies will not change, I afford these limited weight in the determination of this appeal. In any event if I had afforded them full weight, for the reasons that follow, it would not have altered the outcome of the appeal.
3. Since the determination of this application, the Government published a revised National Planning Policy Framework (the Framework) in September 2023, replacing the version published 20 July 2021. Those parts of the Framework most relevant to this appeal have not been amended. As a result, I consider that there is no requirement for me to seek further submissions on the revised Framework, and I am satisfied that no party has been prejudiced by my approach.

## Main Issues

4. The main issues are:
  - i) the acceptability of the location of the proposal in respect of flooding;
  - ii) the effect of the proposed development on the character and appearance of the area; and
  - iii) whether the proposal would harm the living conditions of the occupiers of the existing dwelling at No 22 Brewery Road (No 22) with particular regard to privacy and outlook.

## Reasons

### *Flooding and drainage*

5. The appeal proposal would involve the sub-division of the garden of the existing dwelling at No20A Brewery Road and the construction of a dwelling. The Environment Agency Flood Maps identify the site as being within Flood Zone 2/3a as detailed in the Council's Strategic Flood Risk Assessment (SFRA). As set out in the Planning Practice Guidance (PPG) zones 2 and 3a are defined as having a 'high probability' of flooding.
6. Paragraph 159 of the Framework states that inappropriate development should be avoided by directing development away from areas at higher risk of flooding. Paragraph 162 of the Framework seeks to steer new development to areas with the lowest risk of flooding, and state that development should not be permitted if there are 'reasonably available sites', appropriate for the proposed development, in areas with a lower risk of flooding. Similarly, Policy CS19 of the North Lincolnshire Local Development Framework Core Strategy Adopted June 2011 (CS) supports development proposal that avoid areas of current or future flood risk, and which do not increase the risk of flooding elsewhere.
7. The PPG<sup>1</sup> guides that the area to apply the Sequential Test across will be defined by local circumstances relating to the catchment area for the type of development proposed. For some developments this may be clear, for example the catchment of a school. In other cases, it may be identified from other local plan policies, such as the need for affordable housing within a specific area identified. Whilst the Sequential Test provided by the appellant includes a search area of Crowle, the appellant does not appear to have cast their view further afield to nearby settlements, and no local circumstances or justification has been provided to endorse this particular search area.
8. The Sequential Test concludes that the proposed scheme passes the test based on the lack of allocated sites in lower flood risk area and a lack of comparable sites in the area, while highlighting the proposals sustainability credentials.
9. Despite the appellant's assertions, I have limited information of details of allocated sites and sites benefiting from planning permission and windfall sites consented by the Council. The appellant contests that the available site within Flood Zone 1 is for a superior dwelling than what they are seeking, however, I have no further details of this permission. The appellant has referred to schemes approved by the Council in flood risk areas passing the Sequential Test. Whilst this may be the case, I have no specific details of those cases or the information that informed those decisions.
10. In the absence of any detailed analysis and background information to inform the Sequential Test, I cannot reach a firm conclusion on the reasonable availability of other sites suitable for the development which are located within an area at lower risk of flooding. Accordingly, the information submitted does not amount to a thorough search demanded by the Sequential Test. As such there is no need for me to consider the exception test<sup>2</sup>.

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<sup>1</sup> Paragraph 033 Reference ID:7-033-20140306 of the PPG

<sup>2</sup> Paragraph 032 Reference ID: 7-030-20220825 of the PPG

11. The evidence before me fails to adequately address that there are sequentially lower risk available sites than the appeal site. As such it would conflict with the development plan, the advice in the Framework and the PPG, and could expose people and property to an increased risk of flooding when alternative sites with less risk of flooding may be available. Whilst the proposal would incorporate mitigation measures, that are set out in the appellants Flood Risk Assessment, which could be subject to conditions, such matters do not outweigh the failure of the proposal to meet the requirements of the Sequential Test.
12. I note the submitted Flood Risk Assessment (FRA) and that the Environment Agency (EA) did not raise an objection subject to the imposition of conditions regarding finished floor levels, in order to mitigate flooding associated with the site. I have had regard to the suggested conditions referred to by the Lead Local Flood Authority and the EA. Were the scheme otherwise acceptable a detailed drainage scheme, which makes appropriate provision on site for surface and foul drainage associated with the impacts of the scheme, could be secured. However, that would not, in itself, reduce flooding vulnerability.
13. Further to the above, I conclude that the location of the site is not acceptable in respect of flooding, with particular regard to the Sequential Test. The proposed development would not accord with Policy CS19 of the CS which seeks, amongst others, to ensure new development avoids area of current or future flood risk and does not increase the risk of flooding elsewhere, nor the advice in the Framework.

#### *Character and appearance*

14. The existing dwelling is detached, two-storey dwelling and sits within a substantial L-shaped plot. The site also borders the rear garden of the neighbouring property at No 22 and fields to its western boundary.
15. The surrounding area is varied in terms of the scale, design and external appearance of dwellings. Whilst garden depths vary along Brewery Road dwellings within close proximity to the appeal site have long spacious rear gardens, some of which have domestic structures and outbuildings. Dwellings on the western side of Brewery Road are generally arranged along, and facing, the road without buildings set behind them which do not have a road frontage. The absence of built development contributes to a sense of openness, experienced by the properties along this side of the road.
16. The positioning of the proposed dwelling would disrupt the prevailing pattern of development and introduce an incongruous form of development. Accordingly, it would not achieve a satisfactory relationship to existing development within the locality.
17. The proposed dwelling includes a bedroom in the roof space and a flood refuge area. I note that amended plans were submitted during the processing of the application to reduce the size of the proposed dwelling, however, it remains a substantial property, significantly larger than No 22 to the front of the appeal site. The proposed dwelling would be significantly wider in comparison to the frontage dwelling, however, given the varied scale and design of dwellings within the immediate context of the appeal site, including two-storey dwellings, the scale and design of the dwelling would not be out of character with other nearby properties.

18. Due to its significantly elevated position the roof of the proposed dwelling would be highly visible above the roofline of No 22. Furthermore, owing to the significant width of the proposed dwelling, this would result in an incongruous and over-dominant addition that would be widely viewed in the streetscene. Consequently, the relationship of the proposed development relative to No 22, exacerbated by its elevated position, would result in a discordant addition to the streetscene.
19. The external materials of the proposed development could be conditioned if I were to allow this appeal, however, this would not sufficiently mitigate the harm I have identified in respect of the character and appearance of the area.
20. My attention has been drawn to nearby developments on the eastern side of Brewery Road. From the limited information available to me, and as observed at my site visit, I do not consider the developments to be comparable. The dwellings on Fox Close, Brewery Gardens and Isle Close differ in terms of the pattern of development to properties on the western side of Brewery Road, and in any event do not form part of the immediate site context. The pattern of residential development on the eastern side of Brewery Road does not lead me to a different conclusion on the main issues in this appeal. In any event, I have assessed the appeal on its own merits.
21. For the above reasons, I conclude the proposed building would harm the character and appearance of the area. It would therefore be contrary to Policies H5, H7 and DS1 of the North Lincolnshire Local Plan 2003 (LP) and Policy CS5 of the CS which, amongst other things, seek to ensure that all new housing development is in keeping with the scale and character of the settlement. In addition, I find conflict with Paragraph 130 of the Framework which seeks to ensure that development is sympathetic to local character and adds to the overall quality of the area.

#### *Living conditions*

22. The proposed dwelling would be positioned to the rear of No 22. The elevated position of the proposed dwelling would result in the window of the front elevation being positioned above the shared boundary fence. Whilst I acknowledge the separation distance and that landscaping is proposed, any landscaping would take some time to establish.
23. The occupant of the proposed would be able to look out from the kitchen window towards the garden and rear habitable room windows of the frontage dwelling. This additional overlooking from the proposed habitable room window would therefore harm the living conditions of the existing occupiers of No 22 with particular regard to privacy.
24. The proposed dwelling would be positioned where currently there is no building, however, given the intervening space between the existing and proposed dwelling I am satisfied that the proposal would not have a significant harmful impact upon the living conditions of the existing occupiers of No 22 by reason of outlook.
25. For the reasons stated above I conclude that the proposal would harm the living conditions of the existing occupiers at No 22 with particular regard to privacy. Accordingly, the proposal conflicts with Policies H5, H7 and DS1 of the

LP and Policy CS5 of the CS insofar as these policies aim to prevent harm through overlooking.

### **Other Matters**

26. I note the evolution of the proposal from a previously refused scheme and pre-application advice. However, I have considered the appeal proposal on its own merits based on the evidence before me.

### **Planning Balance**

27. The proposed development would result in economic benefits arising from its construction. I note the environmental credentials of the proposed dwelling through an energy efficient design and construction. There would also be social benefits through the future occupiers supporting local businesses. I have also taken into account that the proposal would contribute to the supply of housing, providing ground floor living accommodation that may be suitable for the elderly or disabled, and would therefore make a positive contribution to the variety of house types on offer in the locality. However, as the proposal is for a single dwelling these benefits would be limited.
28. Since the refusal of permission, the Council has confirmed that they now have a 5-year deliverable housing land supply, as identified within the North Lincolnshire Council Five Year Housing Land Supply Statement, issued in August 2023. Nevertheless, even if the Council did not have a 5-year deliverable housing land supply the tilted balance, as set out in Paragraph 11 d i) of the Framework, is not engaged as the application of policies that protect areas or assets of particular importance provides a clear reason for refusing the development proposed, which in this case relates to areas at risk of flooding<sup>3</sup>.

### **Conclusion**

29. On balance, the development conflicts with the development plan taken as a whole and there are no material considerations to suggest the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, and having had regard to all other matters raised, the appeal is dismissed.

*R. Gee*

INSPECTOR

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<sup>3</sup> Footnote 7 of the Framework