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# Appeal Decision

Site visit made on 20 December 2023

**by J Smith MRTPI**

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

**Decision date: 23 January 2024**

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**Appeal Ref: APP/E2001/W/23/3324928**

**217 North Road, Withernsea HU19 2AX**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mrs Stella Gatti against the decision of East Riding of Yorkshire Council.
  - The application Ref 22/01625/OUT, dated 27 April 2022, was refused by notice dated 30 March 2023.
  - The development proposed is outline Planning Application for the erection of three dwellings (All Matters Reserved).
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The decision notice references the name of the applicant as Stella Gatti. The application form notes the name of the applicant as Stella Squire. I have clarified this matter and set out the correct name in the banner heading.
3. Since the determination of this application, the Government has published a revised version of the National Planning Policy Framework (the Framework) in December 2023. Those parts of the Framework most relevant to this appeal have not been amended. As a result, I have not sought further submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by taking this approach.
4. Outline planning permission is sought with all matters reserved. The Council note that despite the outline nature of the application, this would not allow for a suitable assessment to be made of the proposed indicative scheme with regard to its effect on character and appearance, residential amenity of the occupiers of neighbouring properties and future occupiers of the appeal dwellings, highway safety, access and parking.
5. Notwithstanding the Council's view, I have assessed whether or not an acceptable development as described in the proposal could be devised based on the evidence provided including any indicative plans. Moreover, in assessing the indicative plans submitted I am cognisant that the site could be developed in other ways.

## Main Issues

6. The main issues are the effect of the proposal on:
  - the living conditions of neighbouring occupiers, with regard to noise nuisance and disturbance;

- the living conditions of future occupiers, with regard to outlook, private amenity space and nearby noise and odours arising from the Withernsea Sands Caravan Park Clubhouse; and
- the character and appearance on the area.

## **Reasons**

### *Living Conditions of Neighbouring Occupiers*

7. The appeal site comprises the side and rear garden of the host dwelling, with the indicative access to the site proposed between the host dwelling and 215 North Road. The wider vicinity hosts a variety of property styles including single storey bungalows and two storey terraced properties. These properties, despite their differences in design follow a linear pattern of development.
8. The proposed location of the indicative access would be located adjacent to the side and rear elevation of 215 North Road, as well as that property's rear garden. The arrangement of three dwellings would utilise this access point and result in the introduction of vehicle movements into the rear of the appeal site. In this configuration, the vehicular movements associated with 3 new dwellings are anticipated to be low over a 24hr period, nevertheless I would expect vehicle noise to be characterised by engines revving, doors opening and closing, drivers and passengers talking and sounds from car audio systems. Cumulatively I consider that the sounds and activity, associated with the proposed vehicular traffic, in and around No 215 would be intrusive at certain times of the day and would have the effect of significantly harming the enjoyment that residents could reasonably expect from within rooms and the private amenity spaces at the property.
9. Between the appeal site and the neighbouring property there is flat and level ground. The direction of headlights towards 215 North Road, due to the position of the access point and the low-level boundary treatment which exists between the two sites, would result in increased light from car headlights directed towards windows serving rooms at the property. This is unacceptable as it would be intrusive on neighbouring occupiers of 215 North Road.
10. The appellant contends that no objection has been received from neighbours or the Council Highways team on this matter. However, the absence of any objection in this respect does not overcome the harm I have found in this regard.
11. The development would introduce vehicular movements in close proximity to the side and rear elevation and rear amenity space of the neighbouring property. The proposal of three dwellings with associated parking spaces would result in excessive noise and disturbance to the neighbouring occupiers of 215 North Road and would not be an acceptable point of access. As such, the proposal would work against Policy ENV1 of the East Riding Local Plan Strategy Document 2016 (ERLP). Policy ENV1 requires amongst other things, for development to have regard to the amenity of existing properties.

### *Living Conditions of Future Occupiers*

12. Withernsea Sands Caravan Park is located adjacent to the boundary of the appeal site. The clubhouse which serves the caravan park with entertainment facilities is located in close proximity to the boundary of the appeal site and

property B, as shown on the indicative layout. As such, it is expected that due to its close proximity that this would result in unwanted noise and general disturbance as well as intrusive cooking odours from the rear facing extraction fans of the clubhouse to result in a detriment to the living conditions of the future occupiers, particularly those that would be occupying dwellings close to the entertainment facility. Accordingly, given this relationship, it has not been demonstrated to my satisfaction that the negative effects of noise and odour can be overcome.

13. Regardless of the indicative layout, I am mindful that the site could be developed in other ways. However, based on the evidence submitted and my assessment of the site on the ground, I do not find that a suitable alternative arrangement could be proposed where three dwellings could be rearranged in a manner that would ensure that future occupiers would be unaffected by the harm I have outlined.
14. The appellant notes that the garden of the host dwelling of the appeal site is directly adjacent to the boundary of the clubhouse. In this circumstance, I find that this is an existing relationship which is adequate distance away from the club house to not suffer the negative effects associated with noise and odour. The appellant further notes that there is another commercial and residential relationship on North Road. This is an existing relationship and I have not been provided with adequate information on this relationship to comment.
15. The indicative proposal shows the three bungalow styled properties with a courtyard arrangement facing each other in an arrow shaped site. This causes the site to taper and narrow towards its boundaries. A large number of trees are indicated to be retained. This would have a screening effect along the boundary.
16. Various windows are indicated in most elevations of the proposed dwellings, with the exception to bungalows A and C, which do not contain side windows in one elevation each. Future occupiers can look out from other windows, however, these would be facing onto the shared courtyard arrangement, to the appeal site boundary in close proximity in some cases, or to the appeal site host dwelling a short distance away. In this situation, future occupiers are presented with a limited outlook to the rear or across to neighbouring properties. Due to the close proximity of each proposed dwelling, I find that these would not be favourable outlooks due to their close proximity to each other.
17. However, it is likely that given its size and the available space within the site, an alternative dwelling layout could be achieved where windows would be positioned away from each other with a greater outlook to the rear of the property. This would likely lead to a much improved outlook for future occupiers than the indicative scheme before me. I have not been presented with evidence from the Council that shows this cannot be set out in another arrangement.
18. I further note that each property is assigned a private amenity space as proposed on the indicative plans. From the rear of bungalows B and C to the boundary of the appeal site there is a considerable depth in the private amenity space to these properties. Property A would not have an adequate depth from its rear elevation to the boundary of the appeal site.

19. Despite appearing as adequate spaces on plan in relation to their overall size, once constructed, the realities of these private amenity spaces would be harmful to the future occupiers of these dwellings. This is due to the lack of depth of the rear garden to property A, but more decisively, all three properties would have awkward arrangements due to the sharp angles of their private amenity spaces. These would reduce the overall usable spaces available to these future occupiers and whilst they may appear as large spaces on plan, would not be as large usable spaces in reality due to their awkward shape. Furthermore, with the retention of trees to these rear boundaries of the indicative properties, these would enclose the properties and create a short perception of depth to the rear private amenity spaces.
20. However, based on the size and overall shape of the site, I find that alternative arrangements with gardens proposed in a linear pattern with similar sizes could provide adequate amenity space through the layout of a proposed scheme at a reserved matters stage which would reduce the harm I have found on the indicative scheme before me. I have not been presented with evidence from the Council that shows this cannot be set out in another arrangement.
21. I have found that the outlook and private amenity space requirements of future occupiers would likely be acceptable through an alternative arrangement of the proposed units. However, the proposed development would have an unacceptable effect on the living conditions of future occupiers, with particular regard to noise, general disturbance and cooking odours given the close proximity to the neighbouring caravan park clubhouse. The proposal would be contrary to the provisions of Policy ENV1 of the ERLP. This policy requires development to have regard to the amenity of existing or proposed properties. Furthermore, it would fail to accord the provisions of paragraph 123 of the National Planning Policy Framework (the Framework) which seeks for new development to promote effective use of land in meeting the need for homes, whilst ensuring healthy living conditions.

#### *Character and Appearance*

22. North Road has a variety of property styles and types, but most notably in this immediate vicinity, properties front the highway, are in a linear form, with spacious gardens to the front and follow a set building line. Properties in this immediate location host rear amenity spaces of a considerable size.
23. The layout and design of the proposal would need to be formally considered at the reserved matters stage. However, the intention to erect three properties in what is considered back land development would not follow the line of development in the immediate street scene. Whilst this would not be overtly visible from the public highway due to the linear frontage and close spaces between properties on North Road, this proposal would appear cramped in small glimpses into the site from the public highway and from the gardens and rear facing windows of neighbouring properties. From these perspectives the proposal would appear intensively developed within the confines of the site and would contribute to an unacceptable sense of overdevelopment of the appeal site.
24. Regardless of the indicative layout that accompanied the application, I still consider that the construction of three dwellings, with the boundary constraints associated with the site would appear unduly cramped and intensively developed in other arrangements.

25. As such, the proposed development would be contrary to Policies H4 and ENV1 of the ERLP. These policies seek for proposals to make effective use of land, have regard to the specific characteristics of the character of the surrounding area, be of an appropriate scale and density. This indicative proposal would work against paragraph 135 of the Framework which seeks for new development to be visually attractive and is sympathetic to local character.

### **Other Matters**

26. I note that previous planning decisions have been approved for outline applications for the erection of three dwellings in 2006 and 2009 at the appeal site. The appellant notes that these proposals were approved through a previous Local Plan and Spatial Strategy and that the layout of the 2009 approval is clearly different to the proposal before me. Both decisions were made under different local policy circumstances but more decisively, I note that the Framework was not a material consideration at the time of their determination. Therefore, having had regard to the Framework throughout this decision, I assign little weight to those decisions and have assessed this proposal on its own merits.
27. A number of examples have been provided by the appellant to illustrate various examples of back land development, like proposed here. However, these all differ in terms of the number of units, the size and shape of the site and their location relative to neighbouring occupiers and properties. Therefore, this appeal can be distinguished from those other examples referred to. In any event, each application is assessed on its own merit and site characteristics.

### **Conclusion**

28. The proposal would lead to significant harm to the living conditions of neighbouring occupiers, the living conditions of the future occupiers of the appeal site and to the character and appearance of the wider area.
29. The net increase of three dwellings would bring economic and social benefits, including construction jobs, increased local spend and sustainably located new homes boosting the supply of housing. Yet, the minor benefits associated with this would not outweigh the significant harm I have found in respect of the main issues.
30. For the reasons given above, the proposal would be contrary to the development plan as a whole. There are no material considerations which indicate that I should take a decision otherwise than in accordance with the development plan in this case. Therefore, I conclude that the appeal should be dismissed.

*J Smith*

INSPECTOR