



Appeal Decision

Site visit made on 20 May 2024

by L N Hughes BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 May 2024

Appeal Ref: APP/E2001/W/23/3328298

69 Colonels Walk, Goole DN14 6HJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs Rashinski against the decision of East Riding of Yorkshire Council.
 - The application Ref is 23/00438/PLF.
 - The development proposed is the sub-division of existing house to form two dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for the sub-division of existing house to form two dwellings at 69 Colonels Walk, Goole, DN14 6HJ in accordance with the terms of the application Ref 23/00438/PLF, and the plans submitted with it, subject to the following conditions.
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Site Location
 - Proposed Plot Plan
 - MC1A Proposed Ground Floor Plan
 - MC2 Existing First Floor Plan
 - MC3 Existing and Proposed Elevations
 - 2) Within 2 months of the date of this permission, details of a flood warning and evacuation plan including a timescale for compliance, shall be submitted to the Local Planning Authority. Additional details or a revised plan must be submitted if requested by the Local Planning Authority, within its stated timescale. Once approved in writing, the approved details shall be implemented, and retained for the lifetime of the development.
 - 3) Within 2 months of the date of this permission, the mitigation measures specified below shall be fully implemented, and shall be retained and maintained thereafter throughout the lifetime of the development:
 - a) An internally accessible place of safety provided for all occupants on the upper floors;
 - b) Sleeping accommodation to be confined to first floor level or above;
 - c) External finishes maintained and non-permeable surfaces not increased;
 - d) External doors to be watertight with no letter box;
 - e) Ground floor lighting and sockets to be served from first floor above and sited 900mm above ground floor finished floor level; and
 - f) Drainage system to be fitted with non-return valves.

Preliminary Matters

2. From the information presented and from my site visit observations, the change of use including the external alterations have taken place.

Main Issue

3. The main issue is whether the appeal site is an appropriate location for the development, with reference to its vulnerability to flooding.

Reasons

4. An application for the same proposal was dismissed on appeal in February 2022¹, and the physical circumstances of the site do not appear to have altered since. The site comprises the end two dwellings of a long terrace of similar 2-storey dwellings, within a predominantly residential area. Development has taken place to convert what was previously a larger single dwelling into the two now present, including external changes of an additional door on the front elevation, and the subdivision of the rear garden. The yards contain outbuildings and access gates. The Council accepts the principle of the development, and its physical impact on the streetscene, and I see no reason to come to a different conclusion.
5. The site has a high probability of river flooding, as for the majority of Goole. The dwellings and the majority of their curtilages are within a Flood Zone 3 Breach Region, as identified by the Strategic Flood Risk Assessment: Level 2: Goole (SFRA) (2020 updated 2021). Modelling shows this area would be subject to flooding following a breach of defences.
6. The previous appeal decision noted the Council clarification that a small part of an existing rear outbuilding is within the Rapid Inundation Zone (RIZ). This is at higher risk than the Breach Region, whereby in a breach scenario this area would experience potentially high water depths and velocities, and debris.
7. The proposal would thus conflict with the National Planning Policy Framework ('the Framework') (2023) paragraph 165, which requires the avoidance of inappropriate development in areas at highest risk of flooding. It would also conflict with the East Riding Local Plan 2012-2029 (LP) (2016) Policy ENV6(D)(viii), as this requires new developments to adhere to relevant SFRA recommendations, and the SFRA does not permit an increase in the number of dwellings in the RIZ. The proposal may also increase the number of vulnerable occupants on the site.
8. However, material considerations are that this conflict is limited by the very small overall and comparative size of this RIZ part of the site, and the very low likelihood of any additional persons present on this part when it may be subject to flooding. Any such persons would also be able to reach upper floors safe from flooding a very short distance away. This policy conflict is also somewhat further limited because the previous larger dwelling had no occupancy restriction, and any occupancy increase is likely to be relatively minimal considering the proposal's overall size.
9. Turning to site specific flood mitigation, the Council has confirmed that an overall sequential test is not required. The LP Policy ENV6(C) thus identifies

¹ Planning application reference 21/01322/PLF, appeal reference APP/E2001/W/21/3282681

that if it is not possible to steer development to a sequentially preferable site, a sequential approach should be taken to its layout and design. This aims to steer the most vulnerable uses towards the lowest risk parts of the site and upper floors. ENV6(D) further requires a range of measures to proactively manage flood risk, including criterion (v) to have a safe access route to Flood Zone 1 or establish that it will be safe to seek refuge at a place of safety, and (vi) to incorporate high levels of flood resistant and resilient design. The LP Policy A4(C)(5) also requires the proactive management of flood risk, having regard to the SFRA and flood risk management plans.

10. The site solution which addresses Policy ENV(6)(C) and (D)(v) is that in a flooding period, occupants would have access to the upper floors of the dwellings, and there are no basements where they may become trapped. This would also have been the case prior to the sub-division of the larger dwelling.
11. The Council also accepts the site-specific Flood Risk Assessment (FRA) (July 2022) as appropriate for the change of use. This proposes various mitigation measures including a watertight external door, lighting and sockets to be served from first floor, non-return valves, and occupiers given advice for living in a flood zone and signed up to the flood warning system. Subject to conditions to require these measures in perpetuity, the proposal would thus meet the requirements of Policy ENV6(D)(vi), and also with Policy A4(C)(5).
12. I also find that these conditions would create betterment, compared to the occupants' flood risk which would have been present prior to the sub-division. I additionally find that the provision of new dwellings in this location is generally supported by the LP Policy A4, and the Framework's aims to significantly boost the supply of homes.
13. Overall, I therefore find that in this instance, the material considerations of the proposal as identified above outweigh the limited policy conflict with the LP Policy ENV6(D)(viii), the SFRA, and the Framework.

Conditions

14. I have attached the statutory condition to specify the approved plans to provide clarity for the terms of the permission.
15. I have imposed the Environment Agency's suggested condition requiring compliance with the flood mitigation measures identified in the FRA, with slight amendment to align with paragraph 56 of the Framework and the Planning Practice Guidance. As the subdivision into 2 dwellings has already been undertaken, I have required a 2 month period for compliance. This condition is necessary in order that the development mitigates as far as possible the risk of flooding and harm from flooding, to which the appellants have agreed.

Conclusion

16. I conclude that while the proposed development would be in minor conflict with the development plan, I find the material considerations weigh in its favour to the extent to outweigh this conflict and the harm. I therefore allow the appeal.

L N Hughes

INSPECTOR