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# Appeal Decision

Site visit made on 30 April 2024

**by S Pearce BA(Hons) MPlan MRTPI**

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

**Decision date: 2 July 2024**

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**Appeal Ref: APP/N2535/W/23/3333015**

**Ashblake House, High Street, Upton, Gainsborough, Lincolnshire DN21 5NL**

- 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 Dick Metcalf against the decision of West Lindsey District Council.
  - The application Ref is 146905.
  - The development proposed is described as "the erection of a new two storey dwelling, on existing land at Ashblake House, High Street, Upton DN21 5NL."
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## Decision

1. The appeal is dismissed.

## Preliminary Matter

2. Since the determination of this application, a revised National Planning Policy Framework (the Framework) was published on 19 December 2023 and updated on 20 December 2023. 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 Framework, and I am satisfied that no party's interests would be prejudiced by my taking this approach.

## Main Issues

3. The main issues are:
  - the effect of the proposed development on the living conditions of the occupiers of 11 High Street, with regard to outlook,
  - the effect of the proposed development on highway safety, with regard to parking provision and access arrangements, and
  - whether the proposed development complies with the requirements of the development plan in respect of reducing energy consumption and design principles for efficient buildings.

## Reasons

### *Living conditions*

4. The appeal site is located adjacent to 11 High Street, a residential property with a detached outbuilding, sited in a long and relatively narrow plot. The area immediately to the rear of No 11 is an area of hardstanding. Beyond this area, and located largely to the rear of the outbuilding, the land is laid to grass.

5. The appeal scheme seeks to introduce a two storey, detached property on a section of the appeal site that is largely devoid of buildings or structures. The proposed property would be sited with its frontage some distance from the highway, broadly in line with the two storey rear elevation of No 11. Although at an oblique angle, the side elevation of the proposed property would be close to the shared side boundary with No 11. As such, the proposed development would sit alongside the area of hardstanding located to the rear of No 11.
6. While the appellant contends the hardstanding area is not used as an outdoor amenity area, there is little substantive evidence confirming this. From my observations during the site visit and the evidence submitted, this area comprises part of the rear garden associated with No 11. Given its size, proximity and relationship to the rear of No 11, the hardstanding area could reasonably be used as an outdoor seating area.
7. As a result of the proposed property's height, siting and depth, together with its proximity to the shared boundary with No 11, the appeal scheme would result in a dominant and oppressive form of development that would significantly reduce and adversely affect the outlook for the occupiers of No 11 when using the hardstanding section of their garden.
8. The orientation of the roof slope and oblique siting of the property would offer little mitigation against the harm identified, given the proximity of the appeal scheme to the shared boundary, its two storey height and depth.
9. Due to the location of the appeal scheme, there would be no material loss of outlook for the occupiers of No 11 when using the lawned section of their garden.
10. For these reasons, the proposed development would cause unacceptable harm to the living conditions of the occupiers of 11 High Street, with regard to outlook. This is contrary to Policy S53 of the Central Lincolnshire Local Plan Adopted April 2023 (LP) which seeks, among other things, to ensure development proposals do not result in harm to people's amenity. It is also contrary to the Framework which seeks, among other things, to ensure development proposals have a high standard of amenity for existing users.

#### *Highway safety*

11. The appeal site is located within Upton, which is designated as a small village. Considering its location, LP Policy S49 requires the proposed three-bedroom property to have three off-street parking spaces. The supporting text to this policy highlights that an under provision of parking can lead to unsuitable or unsafe on-street parking. The evidence indicates that the appeal scheme proposes two off-street parking spaces.
12. The appellant states that there is sufficient space within the appeal site to provide an additional parking space, which could be secured by a pre-commencement condition requiring an updated scheme to be submitted and agreed by the local planning authority.
13. The Planning Practice Guidance<sup>1</sup> advises that while conditions can be used to modify plans, it would not be appropriate to modify the development in a way that makes it substantially different from that set out in the application. Having

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<sup>1</sup> Planning Practice Guidance Paragraph: 012 Reference ID: 21a-012-20140306

regard to the modest size of the appeal site and orientation of the existing garage, I cannot be certain whether the provision of an additional space could be accommodated without substantially altering the appeal scheme. Therefore, in the absence of substantive evidence to the contrary, the proposed development would result in a shortfall of one off-street parking space.

14. While only a snapshot in time, during a quieter part of the day, I observed some on-street parking availability and no parking restrictions along High Street. However, the availability of on-street parking along High Street is restricted due to the alignment of the carriageway, its narrower width in places and the location and number of existing driveways. The lack of off-street parking for some residential properties is likely to contribute towards the demand for on-street parking in the area, with further evening demand likely to come from residents returning from work.
15. Limited evidence has been submitted which demonstrates that there is sufficient capacity to safely accommodate the additional demand for on-street parking that would result from the proposed development. In the absence of such evidence and having regard to the existing demand for on-street parking, the proposed development is likely to increase on-street parking pressure along High Street.
16. Although the private drive is an existing access point for Ashblake House, the appeal proposal would, nevertheless, result in an increase in vehicles utilising the drive. While the width of the private drive falls below the Highway Authority's requirements, the Council has not provided any robust evidence to explain what harm, if any, would arise from the proposed arrangement. In any event, I have found harm in respect of the proposed parking arrangements.
17. Therefore, I conclude that the proposed development would have a harmful effect on highway safety. This is contrary to LP Policies S47 and S49 which, among other things, collectively seek to ensure development proposals contribute towards a safe transport network and make appropriate and deliverable parking provision. It also conflicts with the Framework which states development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety.

#### *Efficient buildings*

18. Policy S7 of the LP requires all new residential development proposals to include an Energy Statement to demonstrate how the specified standards of performance and the design principles outlined within LP Policy S6 for energy efficient buildings would be met. None of the 'exceptional basis clauses' apply in this instance. The introductory text to these policies highlights that it is significantly cheaper and easier to install energy efficiency and low carbon heating measures when homes are built, rather than retrofitting them afterwards.
19. No energy statement was submitted with the planning application, although the appellant has indicated that such a requirement could be secured by a pre-commencement condition. However, the policies seek that compliance should be demonstrated prior to a decision, rather than details being dealt with through a planning condition.

20. In the absence of an energy statement, it is not clear whether the standards specified within LP Policy S7 would be met and whether the design principles stipulated within LP Policy S6 have been fully considered in the design and layout of the proposed development. Consequently, as I cannot be certain that compliance would be achievable in respect of the scheme before me, it is not appropriate to defer these matters to a planning condition.
21. For these reasons, the proposed development would not comply with the requirements of the development plan in respect of reducing energy consumption and design principles for efficient buildings, contrary to LP Policies S6 and S7, as set out above.

### **Other Matters**

22. The Church of All Saints, a Grade II\* Listed Building lies within Upton. In determining this appeal, I am required to have special regard to the desirability of preserving the setting of this listed building, as set out by section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
23. The significance of the listed building is derived, in part, from its architectural and historic interest as an important long-standing place of worship, and its prominent location and relationship with the village. Having regard to the physical separation between the appeal site and the designated heritage asset, together with the intervening features, including residential properties and their gardens, I am satisfied that the setting of the listed Church, and its significance, would be preserved.
24. The appellant asserts that the appeal scheme comprises sustainable development in accordance with paragraph 10 of the Framework. However, the Framework shares similar aims to the development plan of protecting the living conditions of neighbouring occupiers, highway safety and energy efficiency. Therefore, the policies of the Framework taken as a whole, do not weigh in favour of allowing the appeal.
25. The appellant indicates that they are agreeable to a condition to obscure glaze the three first floor, side windows and highlights that there have been no objections from interested parties. These aspects are neutral matters in the planning balance.

### **Conclusion**

26. For the above reasons, I conclude that the proposed development would conflict with the development plan as a whole. There are no material considerations, including the Framework, that indicate I should conclude other than in accordance with it. Therefore, I conclude that the appeal should be dismissed.

*S Pearce*

INSPECTOR