



Appeal Decision

Site visit made on 2 September 2024

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 October 2024

Appeal Ref: APP/D2510/W/24/3341190

Plot 4 Stratford Road, Mablethorpe LN12 1EX

- 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 Miss Vicki Sills against the decision of East Lindsey District Council.
 - The application reference is N/110/02374/23.
 - The development proposed is the change of use of existing triple garage into a dwelling along with separation from existing land.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the proposed development would comply with national and local planning policy which seeks to steer new development away from areas at the highest risk of flooding; and
 - Whether the proposed dwelling would cause unacceptable harm to neighbours' living conditions, with regard to overlooking and privacy.

Reasons

Flood risk

3. The appeal relates to a triple garage at the head of Stratford Road, a short private residential road close to the western edge of Mablethorpe. It was built following a grant of planning permission for a detached house with detached garage in 2006 (LPA Ref: N/110/02612/05). The appellant is seeking permission for a change of use of the garage building to allow it to be used as a permanent self-contained dwellinghouse.
4. Paragraph 165 of the Framework states that "inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk", while the Planning Practice Guidance ("the PPG") clarifies that "areas at risk of flooding" principally means land within Flood Zones 2 and 3¹. The appeal site is shown on the Environment Agency ("EA") flood map for planning as being within Flood Zone 3, an area with a high risk of flooding. The EA reports that flood depths at the site could exceed 1.6m if a breach of the North Sea defences were to occur.

¹ Paragraph 001 Reference ID: 7-001-20220825

5. Policy SP17 of the 2018 East Lindsey Local Plan ("the ELLP") requires that residential development within the coastal area of East Lindsey satisfies the sequential and exceptions tests, as set out in Paragraphs 166 to 171 of the Framework. While Paragraph 174 of the Framework states that "applications for some minor development and changes of use should not be subject to the sequential or exception tests", the PPG sets out a very limited definition of minor development in relation to flood risk. It does not include development that would create a separate dwelling², and the appeal scheme does not therefore fall within the "minor development" exception. There is nothing before me to indicate that a sequential test has been carried out, and accordingly it has not been demonstrated that there are no reasonably available alternative sites where the proposal could be developed.
6. Paragraphs 173 and 174 of the Framework are clear that a site-specific flood risk assessment (an "FRA") should be provided for all development in Flood Zones 2 and 3. The appeal scheme relies as its FRA on a homebuyer's report³ which identifies the site as having a low risk of flooding from rivers and sea, explaining that it takes into account the location and condition of flood defences. The FRA suggests generic "next steps" to deal with flood risk, rather than measures specifically related to the appeal scheme. I therefore agree with the EA's assessment that the submitted FRA does not comply with the relevant guidance in the PPG.
7. Policy SP18 of the ELLP provides for some new housing development within the coastal area of the district in certain circumstances, one of which is the provision of affordable housing to meet evidenced local need. It is the appellant's intention that her daughter, who works in Mablethorpe but who does not have a permanent home in the town due to the lack of affordable housing, would occupy the proposed dwelling. However, there is no mechanism to ensure that the development would secure "affordable housing" in the terms set out either in the ELLP or the Framework.
8. Even if it were certain that the scheme would provide affordable housing, it would still need to comply with the other requirements of the development plan. As I have set out above, it does not comply with the requirement of Policy SP17 of the ELLP in respect of the sequential and exception tests. Policy SP18 states that housing will not be permitted with ground floor sleeping accommodation, and that flood mitigation should be provided in line with the advice of the EA. The standing advice of the EA for the area including the appeal site is that "proposals must have a minimum of 2 storeys, with finished floor levels set a minimum of 1-meter above existing ground level, include flood resilient construction to a height 300mm above the predicted flood depth, and demountable defences to 600mm above the finished floor level".
9. The submitted plans showed the dwelling with a ground floor bedroom, but during the appeal the appellant stated that this room would be used for other purposes instead. It is intended that the dwelling would include an upper floor with bedroom, ensuite bathroom and walk-in wardrobe, but as no internal cross-sections were provided it is not clear whether the building envelope is in fact tall enough to provide living accommodation on two storeys while also accommodating the raising of the ground floor level by 1m as required. While the submitted drawings include detachable flood panels to the ground floor

² Paragraph: 051 Reference ID: 7-051-20220825

³ Groundsure, April 2019

doors, these are shown level with the external ground level rather than rising 0.6m above the finished floor level. I cannot therefore be satisfied that the dwelling would provide adequate and safe accommodation in line with the relevant EA advice.

10. The appellant has referred to other housing being built since 2023 very close to the appeal site. I do not know the full details of that housing, but must presume that it was permitted because, among other things, it complied with the requirements of the development plan in respect of flood risk. It does not in itself therefore lend weight in support of this appeal scheme.
11. For the reasons I have set out above, I conclude that the proposed development would not comply with national or local planning policy which seeks to steer new development away from areas at the highest risk of flooding. It would therefore conflict with Policies SP17 and SP18 of the ELLP which together require new residential development in areas at risk of flooding to meet the sequential test and exception test, and to comply with the flood mitigation advised by the EA. It would also conflict with the requirements of the Framework in respect of flood risk.

Living conditions

12. The appeal property has existing housing on three sides. The proposed rear door would be raised 1m above the existing ground level with an external ramp; as a result it would allow clear views across the boundary fence and into the rear garden of the adjacent dwelling on Church Road to the south. This would lead to a loss of privacy for the occupiers of that property. The appellant has suggested that a lower door with internal ramp or stairs could be used instead, but that is not within the scope of the current scheme.
13. The raised window on the east-facing elevation of the proposed dwelling would allow some overlooking across the boundary fence towards the existing host dwelling. I saw that the separation distance between the two buildings is not great, and there would also therefore be some loss of privacy on this side of the proposed dwelling. Given that the side window would serve a kitchen, and would face the front door of the host dwelling where there is likely to be less expectation of total privacy, I consider the magnitude of harm likely to arise would be less than that in respect of the Church Road neighbour. Nevertheless, it would cause further harm to neighbours' living conditions.
14. The rooflights on the eastern side of the proposed first floor would also be close to the boundary with the adjacent host dwelling. Given my earlier remarks about floor levels, there must be some doubt whether these could be installed "as shown". However, assuming that they could be, as they would serve the ensuite bathroom and walk-in wardrobe, opportunities for mutual overlooking would be relatively limited. Were the scheme acceptable in all other respects, I consider that a condition requiring those rooflights to be glazed with obscure glass and to have restricted opening would be adequate to ensure that they would not lead to a harmful loss of privacy. However, this would not mitigate the other harm I have found.
15. I therefore conclude that the proposed dwelling would cause unacceptable harm to neighbours' living conditions. It would conflict with Policy SP10 of the ELLP which, among other things, seeks to ensure that development does not unacceptably harm nearby residential amenity. It would also conflict with the

provisions of Paragraph 135 of the Framework, which seek to ensure that development functions well and creates places with a high standard of amenity for existing and future users.

Other Matter

16. Matters which were raised by an interested party (and to which the appellant responded) did not relate to the planning merits of the appeal scheme, and have not had a bearing on my decision.

Planning Balance and Conclusion

17. I have found that the proposed development would not comply with national or local planning policy in respect of flood risk, and would be harmful to neighbours' living conditions.
18. I understand that the Council is carrying out a review of the policies of the ELLP, but that it has not yet been completed. The appellant referred to a housing shortfall in the Mablethorpe area, and "uncertainty" around the delivery and impact of the development plan policies. I have not found any inherent conflict between the relevant policies of the ELLP to which I was directed and the Framework, nor was I provided with any detail relating to the supply of housing land or the delivery of housing in the district.
19. The evidence before me does not indicate that "there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date", or that the "tilted balance" set out in Paragraph 11 d) of the Framework should be engaged. Even if I had found the most relevant policies to be out of date, footnote 7 of the Framework states that areas at risk of flooding are one of the "protected areas" described in paragraph 11 d)(i). In this case, the risk from flooding provides a clear reason for refusing the proposed development, and the "tilted balance" is not engaged.
20. The Government's objective is to significantly boost the supply of housing and the proposal would provide an additional home with a reasonable degree of access to services within Mablethorpe. It would provide modest financial benefits during construction and occupation, and accommodation for the appellant's daughter which would allow her to stay close to her family. However, given the very small scale of the proposal, any economic, social and environmental benefits arising from the scheme would be limited, and would not outweigh the other harm I have found.
21. The proposal would conflict with the development plan taken as a whole. There are no material considerations, including those of the Framework, which indicate that the decision should be made other than in accordance with the development plan.
22. For the reasons given above, the appeal is therefore dismissed.

M Cryan

Inspector