



Appeal Decision

Site visit made on 10 September 2024

by J Symmons BSc (Hons) CEng MICE

an Inspector appointed by the Secretary of State

Decision date: 21st October 2024

Appeal Ref: APP/E2001/W/24/3343081

**The Old Vicarage Residential Home, 75 High Street, Airmyn
East Riding of Yorkshire DN14 8LD**

- 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 A Nathan against the decision of East Riding of Yorkshire Council.
 - The application Ref is 24/00028/PLF.
 - The development proposed is a first floor 11-bedroom extension.
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Decision

1. The appeal is allowed and planning permission is granted for a first floor 11-bedroom extension at The Old Vicarage Residential Home, 75 High Street, Airmyn, East Riding of Yorkshire DN14 8LD in accordance with the terms of the application, Ref 24/00028/PLF and subject to the conditions in the attached schedule.

Preliminary Matters

2. I have used the development description shown on the application form as no evidence has been presented to show a change had been agreed.
3. The Council is preparing a new Local Plan and I understand representations are being considered following consultation. However, given the early stage and potential for change in response to the consultation, I have given it limited weight.
4. On 30 July 2024, the Government published a consultation on proposed reforms to the Framework and made a written ministerial statement titled 'Building the homes we need'. Given that those parts of the draft Framework most relevant to this appeal are not proposed to be amended no party's interests would be prejudiced by my decision to proceed without seeking comment on the draft reforms.

Main Issue

5. The main issue in the determination of the appeal is whether the proposed development would be suitable with regards to flood risk.

Reasons

6. The appeal site is a well-established part single, and part two storey residential care home in Airmyn. It is in a predominantly residential area and fronts both the High Street and the River Aire which is beyond. It also lies within the Airmyn Conservation Area (CA).
7. The proposal would add a two storey and first floor extension which would provide eleven additional bedrooms at first floor and parking spaces at ground level. It would also reduce the ground floor occupancy by two bedrooms and incorporate a new disabled accessible stair and a disabled lift.
8. The appeal site is within Flood Zone 3a which indicates the area to have a high probability of river and tidal flooding. However, the area benefits from flood defences which provide protection from a range of flood events including a 1 in 200-year with 20% climate change annual exceedance probability (AEP) and a 1 in 1000-year AEP. Notwithstanding this, the East Riding of Yorkshire Council Strategic Flood Risk Assessment: Level 2: Final V2.1: Goole (2021) (SFRA) identifies the appeal site to be in the Rapid Inundation Zone (RIZ) should the flood defences be breached. It is detailed that a breach of the defences would result in an estimated depth of flooding at the appeal site of between 2 and 3 metres (m) within 0.5 hours. Due to the high depths, velocities and potential for debris that the area may be exposed to, this flooding is shown to have a 'danger to all' flood hazard rating.
9. Aside from the flood risk detailed above, flood history mapping of the area does not show the appeal site falling into an area of historical flooding. Also, other sources of flooding to the appeal site, such as surface water and groundwater, are identified as being low risk.
10. 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, and that where development is necessary in such areas, it should be made safe for its lifetime without increasing flood risk elsewhere. The Framework sets out, under Paragraph 168, that a sequential test should be applied to steer new development to areas with the lowest risk of flooding from any source. It also states that development should not be permitted if there are reasonably available sites appropriate for the proposal in areas with a lower risk of flooding.
11. Paragraph 169 of the Framework states that if it is not possible for development to be located in areas with a lower risk of flooding, an exception test may have to be applied. The need for the exception test depends on the potential vulnerability of the site and the development proposed. This is assessed in line with the Flood Risk Vulnerability Classification set out in the Framework's Annex 3. For residential institutions such as residential care homes, the Flood Risk Vulnerability Classification is 'more vulnerable'. The requirements for the exception test to be passed are that (a) the development would provide wider sustainability benefits to the community that outweigh the flood risk; and (b) the development will be safe for its lifetime taking account of the vulnerability of its users without increasing flood risk elsewhere, and where possible, will reduce flood risk overall.

12. Policy ENV6 of the East Riding Local Plan 2012-2029 Strategy Document (Local Plan) indicates that the risk of flooding to development will be managed by applying a sequential test and, where necessary, must also satisfy the exception test. This is consistent with the provisions of the Framework. However, the policy goes on to state that flood risk will be proactively managed by a series of measures including Policy ENV6 D.1 (viii) which requires development to 'adhere to other relevant SFRA recommendations'. Within the SFRA, Table 6-2 sets out the Spatial Planning and Development Management minimum standards expected for any development. This confirms that in the RIZ, development classed as 'more vulnerable' is not permitted except if it is minor development.
13. In support of the proposal a site-specific Flood Risk Assessment Report, reference J5266, Revision A, dated 18 December 2023 by Griffin Toomes Consulting Engineers (FRA Report 2023) is provided. This confirms the flood risk to the proposal and sets out the sequential and exception tests.
14. It is agreed by the main parties that the proposal would meet the requirements of the sequential and the exception tests and would not be classed as minor development. I see little reason to disagree with these views. Consequently, the proposal would comply with the Framework but would conflict with Policy ENV6 of the Local Plan due to it not adhering to the SFRA's recommendation that 'more vulnerable' development is not permitted in the RIZ.
15. However, this conflict is limited by the appeal site being a well-established, and successful community asset which allows residents to stay closer to home, provides social interaction and offers convenient access to local shops, services and public transport. The proposal would ensure the care home meets public demand for ensuite accommodation and would enable the ground floor bedrooms to be converted to ensuite in the future, potentially further reducing the number of bedrooms on the ground floor. The proposed increase in residents at the care home would be modest and the higher standard of accommodation would be located safely above the estimated RIZ flood level. It would also provide betterment by reducing the existing bedrooms at ground floor and improve accessibility to and capacity of the first floor for flood evacuation. Given the nature of the residents using the care home and the short notice of a flood defence breach, this would improve evacuation options for residents and staff allowing use of the first floor.
16. The passing of the sequential and the exception tests, confirms the above points and demonstrates that there are no sequentially preferable sites, the proposal would offer wider sustainable benefits and it would be safe for its lifetime taking account of the vulnerability of the residents and staff.
17. While I note evidence regarding the viability of the care home is limited, this does not change my view on how the proposal would be a modest addition which would safely complement and protect the existing community service the care home provides.
18. I recognise that the Environment Agency (EA) raised a policy-based objection to the proposal. However, it provided little compelling evidence to show the proposal's wider sustainability and community benefits would not outweigh the flood risk. Furthermore, while it agreed that the flood hazard

rating for the appeal site is 'danger to all', it did not raise any specific concerns that residents would not be safe in terms of flood risk when staying at the proposal. Nor did it show that the proposal would increase flood risk elsewhere. As such, the objection does not change my view regarding this matter.

19. In support of its case, the Council refers to the 'Land off Ivy Park Road, Goole' appeal (Appeal Ref: APP/E2001/W/23/3335708) which dismissed eighteen dwellinghouses within the SFRA's RIZ. However, in this case the site was a 'relatively undeveloped field' and the development failed to pass the sequential test and there was little detail to show the development offered wider sustainable benefits. It is therefore not directly comparable to the appeal before me and does not alter my finding regarding flood risk.
20. While I appreciate the importance and aim of the SFRA regarding this matter, I consider in this instance that the above material considerations in favour of the grant of permission outweigh the limited conflict with Policy ENV6 of the Local Plan and the SFRA. Consequently, I find the proposed development would be suitable with regards to flood risk and would comply with Policy A4 of the Local Plan and Paragraphs 165 and 168 of the Framework. These policies collectively seek to ensure development proactively manages the risk of flooding.

Other Matters

21. The appeal building is within the CA. In accordance with the duty imposed by section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990, I am required to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area. Moreover, the Framework states that when considering the impact of new development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
22. The CA Appraisal 2007 indicates that the CA's special interest and significance predominately relates to its location next to the River Aire and its history as a ferry point. It is noted that the gradual curve of the river has caused the High Street and its building line to reflect the river's shape. The appraisal identifies the view into the CA when approached from the north-east as having particular significance and importance as this is where the older properties create a sense of enclosure by crowding up to the edge of the road. There are a number of listed and unlisted buildings of interest detailed in the appraisal which add to the historical character through fine detailing including the style of door specific to Airmyn. It further identifies that the vast majority of its properties are two storey, though there are a handful of one and a half and two and a half storey buildings.
23. The proposal would not affect the host property's attractive brick vicarage frontage to High Street. While it would extend the existing more modern rear extension and add mass, with its use of matching materials and similar architectural design, it would retain the rear's appearance and subservience to the frontage. Its height would be in keeping with many of the buildings in the area and, with the neighbouring properties separation and boundary treatments, it would not be a prominent or conspicuous addition.

24. While I note the Council's view that there would be 'less than substantial harm' caused by the proposal to the CA, based on the above I am of the view that it would have a neutral effect on, and thus preserve, the CA's character and appearance. Consequently, the proposal would not harm the significance of this designated heritage asset and would not conflict with the provisions within the Framework which seek to protect the significance of designated heritage assets.

25. As noted above, the appraisal also identifies that there are a number of listed buildings within the wider surroundings of the appeal site. Mindful of the statutory duty under section 66(1) of the Act, I have given special regard to the desirability of preserving the settings of these listed buildings. Given the location, extent and nature of the proposal, it would not alter how these buildings are experienced or how their significance is appreciated. As such, it would have a neutral effect on the settings of these nearby listed buildings and would not lessen the contribution their settings make to their significance. I note the Council raised no issues in this respect either.

Conditions

26. The Council has suggested several conditions which I have considered against advice in the Framework and Planning Practice Guidance. As a result, I have amended some of these for consistency and clarity.

27. For the avoidance of doubt and in the interests of certainty conditions for a standard time limit and approved plans are included.

28. To minimise the risk of harm from flooding to residents I have included a condition to secure the flood recommendations and mitigation set out in the FRA Report 2023. This condition includes maintaining these measures thereafter rather than in accordance with a timing/phasing arrangement. I have also included a condition for the proposal's drainage connections to the existing foul and surface water drainage system/s to be provided prior to the occupation so that there are satisfactory drainage systems in place.

29. To maintain the character of the existing building and the area, a condition is required to ensure external materials used shall match the host property. I have also included conditions to limit construction hours to protect residents from disturbance and secure the vehicle parking and servicing provision to prevent adverse effects to the public highway.

30. Due to the potential for prehistoric and Romano-British activity to be present in the area, it is necessary to include a pre-commencement condition to protect archaeological interests and to ensure adequate recording and mitigation measures are completed prior to any construction.

Conclusion

31. For the reasons set out above, and having had regard to all other matters raised, I conclude that the appeal should be allowed.

J Symmons

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - 3109-10A – Proposed Ground Floor and First Floor Plan dated 10 November 2023;
 - 3109-11A – Proposed Elevations and Roof Plan dated 13 November 2023;
 - 3109-12 – Location Plan dated 9 November 2023; and
 - 3109-13 – Site Plan dated 4 December 2023
- 3) The development hereby permitted shall only be carried out in accordance with the Griffin Toomes Consulting Engineers Flood Risk Assessment Report, reference J5266, Revision A, dated 18 December 2023 and the mitigation measures detailed.

The development hereby permitted shall not be occupied until the mitigation measures have been fully implemented and shall be retained and maintained throughout the lifetime of the development.
- 4) The external materials of the development hereby permitted shall match those used in the existing building and as stated on the planning application form.
- 5) The development hereby permitted shall not be occupied until the vehicular access to it and the vehicle parking, loading, off-loading and manoeuvring facilities serving it have been provided in accordance with the approved plans. Thereafter the vehicle parking, loading, off-loading and manoeuvring facilities serving it shall be retained.
- 6) Construction works, deliveries and collections to or from the site shall take place only between 08:00 and 17:00 Monday to Friday, 08:00 and 13:00 Saturday and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 7) The development hereby permitted shall not be occupied until it has been connected to the existing foul and surface water drainage system/s that serve the site and the connections shall be retained and maintained throughout the lifetime of the development.
- 8) No development hereby permitted shall commence until the implementation of a programme of archaeological work has been secured in accordance with a written scheme of investigation which has been submitted and approved in

writing by the local planning authority. The development hereby permitted shall be carried out in accordance with the approved details.