



Appeal Decision

Site visit made on 16 November 2021

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 December 2021

Appeal Ref: APP/N2535/D/21/3279814

104 Park Lane, Burton Waters, Lincoln, LN1 2WP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Andrew Stinchcombe against the decision of West Lindsey District Council.
 - The application Ref 143162, dated 4 June 2021, was refused by notice dated 23 July 2021.
 - The development proposed is a side extension to create a garage and a roof top balcony.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on the living conditions of neighbouring occupants at 102 Park Lane.

Reasons

3. The appeal site is a semi-detached dwelling located in Burton Waters, a planned residential development set around a manmade marina. Dwellings are arranged with the rear elevations facing the water and jetties at the end of the gardens. To the south of the site is a communal space some 8.4 metres wide containing a path leading to a footbridge at the rear which crosses the water. 102 Park Lane lies to the south of the path.
4. The proposed side extension would infill the space between the side wall of the house and the side boundary wall to the property. The boundary wall would be built up from 2 metres high to 3.8 metres high, where it would form an enclosing wall to the proposed roof terrace.
5. From what I saw of the site and its surroundings, dwellings within the Burton Waters development have been designed to maximise views towards the marina, with each dwelling having one or more balconies to the rear elevation facing the water. These vary in design, with some inset behind the rear wall of adjoining dwellings, some projecting from the rear wall, and some Juliet balconies. However, they are generally modest in size, with the balconies I could see around the appeal site capable of comfortably accommodating around 1 to 2 occupants at a time.
6. The positioning of the balconies close to each other, alongside the low boundary treatments between the rear gardens, and the proximity of dwellings across the water, means intervisibility already exists within the development, and with it an expectation for occupants that views will occur at times from

- nearby properties. The garden and first floor balcony of No 102 are overlooked by the balconies to No 100 on its southern side. Views are also possible from the footbridge at the rear and from properties across the marina.
7. However, the orientation of the balconies and the subtle stepping of the rear elevations reduces the extent to which lateral views are likely to take place between balconies and nearby gardens. The modest size of the balconies also limits the number of people who can use them, and also the range of activities possible on them. Given their size and orientation towards the marina, which is intended to draw the eye of the observer, I consider that the degree of overlooking from these vantage points is likely to be intermittent and incidental. Moreover, I saw that to its northern side, No 102 retains a degree of privacy due to the height of the boundary walls and the separation from the appeal site created by the communal footpath, with only a small Juliet balcony at first floor level of the appeal dwelling affording views towards No 102.
 8. The proposed roof terrace to No 104 would extend the full 10 metre depth of the side elevation, and project 3 metres in width out to the site boundary. It would be orientated not towards the marina, but towards No 102. The proposed terrace would be considerably larger than any nearby balcony. It would be at a height that would enable direct views over the boundary fence of No 102 and across a large portion of its garden. It would be capable of accommodating large numbers of people for extended periods of time, and could be used for a number of activities including cooking, dining and other social gatherings. The size of the terrace would therefore significantly increase the propensity for extended periods of use, which would intensify the degree to which No 102 would be overlooked, and the number of people who would overlook it. This would be invasive for occupants of No 102 compared to the existing situation and would result in a harmful loss of privacy.
 9. Moreover, though not explicitly referred to by the Council, I share the concerns of the occupant at No 102 that given the number of people who may be accommodated on the terrace at one time, and its elevated level above the boundary walls, there would be an increased risk of gatherings causing undue noise and disturbance to occupants of No 102, compared to gatherings at garden level where the boundary walls would offer screening and a degree of noise suppression.
 10. I have had regard to the other balconies referred to by the appellant which are argued to be similar to that proposed, including some set at right angles to each other. However, these appear to be an original part of the design, and incorporate a privacy screen between them which reduces the degree of intervisibility. Others shown are not referenced by address, but appear from the photographs supplied to relate to different parts of the development, with differences in their size, design and relationship to other properties. As such, I do not regard these as directly comparable to the proposed scheme. In any event, the assessment of the effect on living conditions is inevitably a site specific one. Therefore, I do not regard these examples as establishing a precedent for the proposal before me, which I have considered on its own planning merits.
 11. I acknowledge the appellant's desire to extend the property whilst retaining the existing aspect to the south afforded by the Juliet balcony at first floor level. However, the plans show that the door of the Juliet balcony would be retained,

and therefore this aspect would still exist. Indeed, the view from within the property would only be affected because of the raised walls proposed to enclose the terrace. As such, I am not persuaded that a terrace above the extension is necessary to maintain a southerly aspect for the appellant.

12. For these reasons, I conclude that the proposal would cause significant harm to the living conditions of neighbouring occupants. This would conflict with Policy LP26 of the Central Lincolnshire Local Plan (April 2017), which requires that the amenities which all existing and future occupants of neighbouring land and buildings may reasonably expect to enjoy must not be unduly harmed by or as a result of development, including with respect to overlooking and noise. There would also be conflict with the aims of the National Planning Policy Framework which seeks a high standard of amenity in developments for all existing and future users.

Other Matters

13. The Council did not refuse permission on the grounds of harm to the character and appearance of the area. Having regard to the site and surroundings, I am satisfied that the scale of the building and proposed materials would be in keeping with the prevailing character. However, the absence of harm in these respects is a neutral factor in the planning balance, weighing neither for nor against the proposal.

Conclusion

14. For the reasons set out, I conclude that the harm identified to neighbours' living conditions results in conflict with the development plan, taken as a whole. There are no material considerations in this case which indicate that permission should nevertheless be granted in spite of this conflict. Therefore, the appeal should be dismissed.

K. Savage

INSPECTOR