



Appeal Decision

Site visit made on 9 June 2022

by Paul Martinson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 July 2022

Appeal Ref: APP/N2535/W/21/3283435

57 Yarborough Road, Keelby, Grimsby DN41 8HT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr John Wingfield against the decision of West Lindsey District Council.
 - The application Ref 142902, dated 22 April 2021, was refused by notice dated 8 June 2021.
 - The development proposed is described as: 'outline application to remove an existing dwelling, several small outbuildings, and erect 3no. new dwellings - all matters reserved - resubmission of 141527'.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant has provided a preliminary ecological appraisal and bat survey at the appeal stage in order to address the Council's reasons for refusal on this matter. However, it is important that what is considered at appeal is essentially what was considered by the Council in making its decision. Given the lack of formal consultation I have concluded that it could be prejudicial to the interests of interested parties to take these additional documents into account, particularly as the effect on bats is a concern highlighted in third party comments. I have therefore determined the appeal on the basis of the documents on which the Council made its decision.
3. The application is in outline form with all matters reserved for future consideration. I have dealt with the appeal on this basis, and I have treated the submitted plans as being illustrative only.
4. The application follows an earlier refusal¹ of outline planning permission for the development of a larger part of the site for 5 dwellings.

Main Issues

5. The main issues are:
 - the effect of the proposed development on the character and appearance of the area; and
 - the effect of the proposed development on protected species.

¹ 141527.

Reasons

Character and Appearance

6. Development along this side of Yarborough Road comprises of dwellings positioned close to the road occupying the frontage of long plots extending away from the road. There are occasional glimpses between buildings along driveways and accesses that give an indication of the length of some of the plots. Development within the plots tends to be limited to small scale and single storey outbuildings, although often these are screened by the frontage development. The near consistent linear arrangement of dwellings along this side of Yarborough Road, with their extensive, predominantly undeveloped plots forms a clear and coherent pattern of development that contributes to the character of the area.
7. The appeal site comprises of an existing detached dwelling positioned close to the road frontage and set within a large plot consistent with the prevailing character. It is proposed to demolish the existing dwelling and construct the new dwellings within the plot. The indicative plans show that one of these would be positioned to the front of the site occupying a similar footprint to the existing dwelling, with two dwellings in the rear garden. This would form a row of detached dwellings extending back into the site.
8. Whilst being mindful that these plans are only indicative, in my view this is logically the way the site would likely be developed. The provision of three properties extending to the rear of the site would represent a clear conflict with the established pattern of development along Yarborough Road. The additional two dwellings to the rear would fail to front the road and would be significantly divorced from the otherwise consistent arrangement of dwellings. As such it would appear as an incongruous and ad hoc form of development that would be at odds with the prevailing pattern of development.
9. The provision of a vehicular access to serve each dwelling would likely allow views across it so that the harm would be experienced in views from outside the site where the contrast with the distinctive pattern of development would be clear. It would also be visible from the neighbouring dwellings.
10. Whilst a large dwelling has been constructed within the rear garden at 75 Yarborough Road that is visible in the streetscene, it is a single dwelling (rather than two additional dwellings as is proposed here) and as such both properties retain lengthy rear gardens as is characteristic in the area. Nevertheless, this is an isolated example of such development with the majority of other properties having long rear gardens. Whilst some of those contain outbuildings, these are clearly visible as such and therefore do not justify the erection of two dwellings within the curtilage at the appeal site.
11. My attention has been drawn to a recent appeal decision² which allowed the construction of a new dwelling in the rear garden of 11 Cissplant Lane (No 11), backing onto the appeal site. In this regard I accept that the backland development forms part of the character of Cissplant Lane, however, this is a separate road that meets Yarborough Road at a junction some distance away from the appeal site. The backland development at Cissplant Lane is not visible in public views in the vicinity of the appeal site. Furthermore, the new

² APP/N2535/W/21/3271245.

development at No 11 would be unlikely to be visible, given the substantial distances involved. The pattern of development along Cissplant Lane therefore has limited relevance in the context of this appeal.

12. The appellant has directed me to new housing development adjacent to the Recreation Ground opposite, however this forms part of a wider pattern of development enclosing that area of public open space and does not appear as backland development of residential gardens. It is therefore not comparable to the case before me.
13. I accept that the appellant has sought to address the Council's concerns following the previous refusal however, for the above reasons I conclude that the proposal would result in harm to the character and appearance of the area. There would therefore be conflict with Policy LP26 of the Central Lincolnshire Local Plan (2017) (the CLLP) which seeks to ensure new development proposals take into consideration the character and local distinctiveness of the area and, amongst other things and in summary, relate well to the existing site and surroundings.

Protected Species

14. The appeal site lies adjacent to mature trees. The site also contains buildings, all of which are proposed to be demolished. These could be used by roosting bats or nesting birds. Third party comments refer to the site being used by bats.
15. Bats³ and wild birds⁴ are protected by law and their presence is a material consideration when a development proposal is being considered which would be likely to result in harm to the species or its habitat. There is a statutory duty on me to have regard to the conservation of biodiversity⁵.
16. ODPM Circular 06/2005 states that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.
17. The appellant provided no ecological surveys in support of the application. In the absence of such surveys, and on the basis of the information before me, I cannot be certain whether protected species are present or the extent to which they may be affected. Furthermore, if protected species were affected, I cannot be certain as to what mitigation, if appropriate, may be required.
18. In this regard, paragraph 180 of the Framework states that if significant harm to biodiversity resulting from development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.
19. I therefore cannot conclude that the proposal would not adversely affect protected species, specifically bats and nesting birds. The proposal would therefore conflict with Policy LP21 of the CLLP and paragraph 174 (d) of the

³ Conservation of Habitats and Species Regulations (2017) & Wildlife and Countryside Act (1981).

⁴ Wildlife and Countryside Act (1981).

⁵ Section 40 of the Natural Environment and Rural Communities Act 2000, as amended.

Framework which amongst other things, seek to minimise impacts on and provide net gains for biodiversity.

Conclusion

20. For the reasons given above, having considered the development plan as a whole and all other relevant material considerations, I conclude that the appeal should be dismissed.

Paul Martinson

INSPECTOR