



Appeal Decision

Site visit made on 30 March 2022

by Zoe Raygen DipURP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12TH April 2022

Appeal Ref: APP/Z2505/W/21/3284792

Land adjacent to 69 Middlegate Road West, Frampton, Boston PE20 1DA

- 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. C. Thornhill against the decision of Boston Borough Council.
 - The application Ref B/21/0291, dated 19 June 2021, was refused by notice dated 6 August 2021.
 - The development proposed is construction of a new dwelling.
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Decision

1. The appeal is allowed, and planning permission is granted for the construction of a new dwelling at land adjacent to 69 Middlegate Road West, Frampton, Boston PE20 1DA in accordance with the terms of the application, Ref B/21/0291, dated 19 June 2021, subject to the conditions in the attached schedule.

Main Issues

2. The main issues are:
 - the effect of the proposal on the character and appearance of the area;
 - the effect of the proposal on the living conditions of the occupiers of Nos 67 and 69 Middlegate Road West with particular regard to outlook and privacy; and
 - whether or not the proposal would provide appropriate living conditions for future occupiers with particular regard to privacy.

Reasons

Character and appearance

3. The appeal site is within an established residential area mainly consisting of detached houses and bungalows set back from the road in large plots. Planting in the front gardens, plot sizes and spacing between the dwellings gives a spacious verdant quality to the road.
4. The dwelling would be sited to the south-east corner of the appeal site giving a good degree of separation to both 67 and 69 Middlegate Road West and maintaining the existing open character. The plot is smaller than those in the locality, and due to the positioning of the dwelling, the rear garden would be substantially smaller than those on neighbouring dwellings. However, while this may be contrary to the character of those in the locality, its size would not be particularly visible within the streetscene and therefore the appearance of the

area would be preserved. Consequently, it would not be materially harmful. The front garden would be of a sufficient size to accommodate both planting and car parking and would not be at odds with the character and appearance of the street.

5. The position of the dwelling means that the western elevation would project a short distance forward of No 67. However, the majority of the visible projection when approaching from the west would be single storey and would not therefore be particularly prominent in the streetscene.
6. The proposed dwelling would be rendered together with a brick plinth and some timber cladding. The brick plinth would only be 500mm in height and, given the positioning of the external doors, it would not be apparent in external views that it would be below floor level. No 69 is rendered and therefore the use of render would not be unusual or an alien feature in the locality. While evidence of timber cladding is more limited in the local area, the small extent of its proposed use on the building would not be so out of character to be harmful to the visual appearance of the locality.
7. I am aware that this site has been the subject of a number of planning applications for a dwelling which have been refused by the Council. Furthermore, an appeal regarding one of those refusals was dismissed by my colleague¹. Moreover, one of the consistent objections by the Council has been the size of the plot and its ability to host a dwelling. The size of the plot has not changed in this instance. However, my colleague on the previous appeal stated on that proposal that although the rear garden would be smaller than the gardens of the surrounding properties, the garden would not be visible from the street and therefore would not detract from the pattern of development. I concur. The various amendments to the dwelling would, as outlined above, ensure that the proposed dwelling would not appear cramped on the site and would not have a materially harmful impact on the character and appearance of the area.
8. For the reasons above, I conclude that the proposal would not be harmful to the character and appearance of the area. There would therefore be no conflict with Policies 2 and 3 of the South East Lincolnshire Local Plan (2011-2036) adopted 2019 (the Local Plan) and Section 12 of the National Planning Policy Framework (the Framework). These require that development is of a high design quality that is sympathetic to local character.

Living conditions

9. No 69 has three windows at first floor level that have an outlook directly towards the appeal site. Two of those windows are obscure glazed and therefore there would be no harmful impact on the outlook from these windows or privacy into the rooms they serve.
10. The third window is clear glazed and serves a bedroom. The private garden space for the proposed dwelling is on its western side some distance from the bedroom window. In addition, views from the bedroom would be interrupted by the dwelling itself and vice versa. The proposal would therefore give a sufficient level of privacy for prospective occupiers in their garden and there would be no material loss of privacy for the occupiers of No 69.

¹ APP/Z2505/W/19/3240611

11. The proposed dwelling would be about 8m from the bedroom window at No 69. While this is relatively close, the gable wall that would be facing the bedroom window would be reducing in height at that point and therefore I do not consider it to be a materially harmful relationship in this instance. While I note the intention of the appellant to place obscure glazing in this window, I do not consider that necessary to make the proposal acceptable.
12. Although not part of its reason for refusal, the Council references the impact on a first floor window at No 67 in its appeal statement. However, this window is to the front elevation of No 67. The proposed house would be set a sufficient distance from this window and would be of a height at this point and offset to ensure that it would only be visible in oblique views from this window. An open outlook would be retained in all other directions.
13. For the reasons above, I conclude that the proposal would not be materially harmful to the living conditions of the occupiers of Nos 67 and 69. In addition, it would provide appropriate living conditions for future occupiers of the proposed dwelling. There would therefore be no conflict with policies 2, 3 and 30 of the Local Plan and the Framework. These require, amongst other things that development is of high quality that provides a high standard of amenity for existing and future users.

Conditions

14. I have had regard to the conditions suggested by the Council and considered them against the tests in the Framework and the advice in the Planning Practice Guidance, making such amendments as necessary to comply with those documents.
15. Conditions relating to timeliness and plans are necessary in the interests of certainty. The Council has suggested the development shall be begun before the expiration of four years, to allow greater flexibility due to the Covid 19 pandemic. However, there are now no restrictions in place due to the pandemic and therefore I have reverted to the standard three year expiration.
16. Conditions regarding the details of the materials and walls and fences are required to protect the character and appearance of the area. A condition regarding the level of water consumption is required to protect the quality and quantity of water resources. Details of measures to reduce pollution and promote renewable and low carbon energy are necessary to help reduce pollution.
17. A condition requiring the development to be carried out in accordance with the approved Flood Risk Assessment is necessary to reduce the risk of flooding. With the agreement of the parties, a condition securing the provision of a swift box is required to ensure the proposal has an acceptable effect in terms of biodiversity.

Conclusion

18. For the reasons above, I conclude that the appeal should be allowed.

Zoe Raygen

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in strict accordance with the associated plans referenced: 21/202/Ex-01 Rev A, 21/202/Pr-01 Rev A, 21/202/Pr-02 Rev A, 21/202/Pr-03 Rev A.
- 3) No development shall take place above ground level until details of the materials proposed to be used in the construction of the external surfaces of the dwelling have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 4) Prior to the first occupation of the dwelling hereby approved details of all walls and fences, including details of their height, design and position, shall be submitted to and approved in writing by the Local Planning Authority. The scheme as may be approved shall be constructed before the dwelling is occupied and retained thereafter.
- 5) The water consumption of the dwellings hereby permitted should not exceed the requirement of 110 litres per person per day (as set out as the optional requirement in Part G of the Building Regulations 2010 and the South East Lincolnshire Local Plan, 2019). The person carrying out the work must inform the Building Control Body that this duty applies. A notice confirming the requirement for the water consumption has been met shall be submitted to the Building Control Body and Local Planning Authority, no later than five days after the completion of the dwelling.
- 6) Prior to the commencement of development above slab level, final details of measures that aim to reduce pollution and promote renewable and low carbon energy (including measures such as facilities for EV car charging) and details relating to the timing of their implementation, shall be submitted to and approved in writing with the Local Planning Authority. The development shall be constructed in accordance with the approved measures.
- 7) The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (FRA), prepared by AF Architecture, and the following mitigation measures detailed within the FRA:
 - i) Finished floor levels to be set 500mm above Ground Level;
 - ii) Flood resilience and resistance measures to be incorporated into the proposed development as stated; and
 - iii) The development will contain two levels of accommodation

The mitigation measures shall be fully implemented prior to occupation and subsequently remain in place.
- 8) The development hereby approved shall not be first occupied until a swift box or equivalent is placed on the approved dwelling and thereafter it shall be kept in perpetuity.

*****END OF SCHEDULE*****