The Planning Inspectorate

Appeal Decision

Site visit made on 24 April 2023

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th May 2023

Appeal Ref: APP/A2525/W/22/3308445
26 West Bank, Crowland, Spalding PE6 0HP

- 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 Lee Johnson against the decision of South Holland District Council.
- The application Ref H02-0671-22, dated 6 July 2022, was refused by notice dated 6 October 2022.
- The development as set out on the application form is: 'Demolition of existing garage and construction of new Dwelling, built in accordance with materials agreed and 750mm above ground level instead of 1m'.

Decision

1. The appeal is dismissed.

Preliminary Matter

2. A dwelling has already been constructed upon the site following a grant of planning permission[1] in 2021. However, a condition related to finished floor levels and flood resilient construction was not complied with and external-facing materials were utilised that had not been formally approved. The application that is now the subject of this appeal followed, which sought to regularise the dwelling as built. Thus, I shall consider the development on a retrospective basis.

Main Issues

3. The main issues are:

   - Whether or not the development is acceptable, having particular regard to flood risk; and
   - The effect upon the character and appearance of the area, having particular regard to the brick type and windows/doors utilised.

Reasons

Flood risk

4. The site, whilst positioned in the vicinity of the River Welland, is located within Flood Zone 1. This zoning indicates the site to be at low risk of flooding from rivers and the sea. However, it also falls within an area identified through the South East Lincolnshire Strategic Flood Risk Assessment (March 2017) (the SFRA) to be at increased risk of flooding in the future should installed

[1] H02-0574-21

flood defences be breached. Indeed, whilst flood defences reduce the risk of flooding, they do not, even if of considerable size and height, completely remove this risk. A future breach would be anticipated to cause a rapid inundation of the areas situated behind installed defences and could lead to significant building damage and a high risk of loss of life. Moreover, a future risk of rapid flooding applies at the appeal site.

5. In accordance with the SFRA, the site has a 'Danger to Most' hazard rating. When the relevant residual flood risk map (as pinpointed by the Environment Agency in its role as a technical consultee) is considered, flood depths of 0.5m-1m are predicted. Related standing advice contained within the SFRA suggests finished floor levels of 'more vulnerable' non-major residential developments to be set a minimum of 1m above ground level and flood resilient construction to a height of 300mm above the predicted flood depth.

6. The appellant has accepted that, whilst there are variations in existing ground levels around the appeal dwelling, the finished floor level of the property is less than 1m above the existing average ground level. Indeed, a figure of 540mm is referenced in the appellant's Statement of Case and accompanying Flood Risk Assessment[2] (the FRA). The existence of long-established adjacent properties with lower finished floor levels when compared to the appeal property does not alter the fact that the minimum 1m requirement, as endorsed by the SFRA, is not met.

7. However, the potential for flood doors to be retrospectively fitted to the property in the interests of offering protection up to a flood level in excess of 1m above average ground level has been raised as a possible solution. Moreover, through direct reference to a relevant peak velocity forecast map appended to the SFRA, it has been demonstrated that the anticipated velocity of potential flood waters would not be at such speed to necessarily discount this approach as a justifiable option.

8. Planning Practice Guidance is clear that resistance measures, such as flood doors, are unlikely to be suitable as the only mitigation measure and should only be used to address residual risks remaining after the use of avoidance and control measures. I acknowledge that the success of flood doors would be at least partly dependent upon periodic maintenance to ensure full functionality.

9. However, of relevance here, a two-storey dwelling offering an upper-floor safe haven is under consideration and the property has been constructed with a finished floor level that exceeds, by a not insignificant extent, the existing average ground level. Further, although a flood breach could occur without prior warning, the potential to receive Environment Agency flood warnings does offer some further assurance that an unacceptable risk to life would not ensue should the dwelling become occupied. This is not least due to the degree of physical separation from a Main River (located beyond the intervening Crowland Washes) that applies here.

10. Therefore, subject to potential planning conditions being imposed to secure full details of the intended flood doors (as well as their subsequent implementation and retention) and full compliance with the various measures set out in the FRA, I am satisfied that, on balance, the development is acceptable having particular regard to flood risk. There is satisfactorily compliance with Policy 4

[2] dated 26 October 2022, prepared by RM Associates

of the South East Lincolnshire Local Plan 2011-2036 (adopted March 2019) and the National Planning Policy Framework (July 2021) (the Framework) in so far as these policies require mitigation measures to demonstrate how development will be made safe and that the occupants will be protected from flooding from any source.

Character and appearance

11. The Council's second reason for refusal specifically references the brick type[3] and windows/doors used as being out of keeping with other properties located on The Willows, the cul-de-sac off which the appeal property is accessed. Upon inspection, I observed the dwelling to have a white-coloured front door and all other windows and doors to be of modern specification and coloured anthracite grey.

12. Properties upon The Willows share a strong degree of assimilation having been constructed from a consistent palette of external-facing materials. They also display often similar architectural features. Reconstituted stone of consistent colouring is particularly prevalent to property elevations, as is the use of differently sized stones to alternate courses. The composition of property elevations on The Willows has promoted visual interest and led to an attractive streetscene where a coherent character is readily identifiable.

13. The elevations of the appeal property have been constructed with bricks of single size and their comparatively bright/yellowish colouring does not closely match that of the reconstituted stone that dominates The Willows. As such, particularly upon entry to the cul-de-sac and when viewed in the context of (and against the backdrop of) other dwellings within The Willows, the appeal property's elevations can be experienced as discordant, monotonous, and unsympathetic to their immediate surroundings.

14. I acknowledge that there are properties with brick-built elevations situated elsewhere in the area, including to the immediate west of the site. However, the appeal property, owing to its precise positioning, is read and experienced as a constituent part of The Willows. Furthermore, the brick used to construct the adjacent property to the west is of duller/darker colouring when compared to the brick type that is the focus of my considerations. This promotes a less stark and more complementary finish in the context of its surroundings.

15. Notwithstanding the undoubted prevalence of white-coloured windows and doors in the locality, I was able to identify replacement windows and doors of differing colours and specific designs near to the site. This included properties on The Willows. In this context, noting that a condition could be imposed to secure that the dwelling's front door is replaced so as to be of matching colour and specification to other front-facing openings, I do not consider that the anthracite grey colour used can be fairly resisted.

16. I acknowledge that the site is not located within a conservation area and that there are no listed buildings nearby. However, these circumstances do not justify development that has an unacceptable effect in character and appearance terms.

17. My attention has been drawn to an email trail where a Council Officer, in relation to the materials condition of the 2021 planning permission at the site,

[3] Bradstone Marshlite Rustic Walling in Buff, single sized

set out that proposed materials (including the brick type now in question) would appear satisfactory and to complement surrounding properties. However, that correspondence was in response to a request made explicitly in advance of an intended formal application to discharge the relevant planning condition. On this basis, the Officer's comments must be interpreted on an informal basis. The evidence before me indicates that no formal discharge of this condition was ever forthcoming, and I have considered the merits of this Main Issue accordingly.

18. For the above reasons, having particular regard to the brick type utilised, the development causes harm to the character and appearance of the area. There is identifiable conflict with Policies 2 and 3 of the LP and the Framework in so far as these policies set out that all development will create distinctive places and that design which is inappropriate to the local area, or which fails to maximise opportunities for improving the character and quality of an area, will not be acceptable.

Other Matters

19. I have noted objections/concerns raised by interested parties with respect to matters including the roof material used, possible subsidence, and parking arrangements. However, as I have found the scheme to be unacceptable for other reasons, it is not necessary for me to explore such matters further here.

20. In terms of the scheme's benefits, an additional unit of residential accommodation is created, and the Framework reaffirms the Government's objectives of significantly boosting the supply of homes and making an effective use of land. Furthermore, future occupation of the dwelling would be fairly anticipated to provide some additional support to the local economy and local community facilities. However, given that merely a single dwelling is under consideration, the scheme's benefits attract limited weight insufficient to outweigh the harm in character and appearance terms that I have identified.

21. Moreover, there is conflict with the development plan when read as a whole and material considerations do not lead me to a decision otherwise.

Conclusion

22. Whilst I have found the development to be acceptable having particular regard to flood risk, I have identified harm to the character and appearance of the area having particular regard to the brick type utilised. This harm is the overriding consideration in this case. For the above reasons, the appeal is dismissed.

Andrew Smith

INSPECTOR