The Planning Inspectorate

# Appeal Decision

Site visit made on 3 September 2019

**by J Hunter BA (Hons) Msc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 19th September 2019**

**Appeal Ref: APP/A2525/W/19/3231691**
**11 & 13 Town Drove, Quadring, Spalding PE11 4PU**

- 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 Adrian Flaherty against the decision of South Holland District Council.
- The application Ref H15-0183-19, dated 19 February 2019, was refused by notice dated 16 April 2019.
- The development proposed is described as to build children's play tower. The tower will consist of three platforms 2m above the ground with interconnecting bridges and access and egress by scramble nets, climbing wall and ladders. Each tower will have a sloping roof for rain protection and one tower will be enclosed as a room with outer platform.

## Decision

1. The appeal is dismissed.

## Main Issue

2. The main issue is the effect of the proposal on the living conditions of the occupiers of neighbouring properties in respect of privacy.

## Reasons

3. The appeal site is a garden area to the rear of a detached property within a residential area. The site is flanked by other residential gardens to the north and west and by the outdoor space associated with the White Hart Public House to the east.

4. The proposal is to erect a large play frame towards the northern end of the host garden extending across approximately two-thirds of its width. The main parties agree that the scale, location and design of the play frame are acceptable in principle. However, there is dispute regarding the impact that the proposal would have on the living conditions of the occupiers of neighbouring properties, particularly The White Hart Public House to the east and No 14 Ludlow Gardens to the north.

5. The proposed play frame would consist of three 4 metre high towers linked by rope bridges and arranged in a linear format across the garden area: the full width would be around 11 metres. The rope bridges would have open sides and given their height users would have open views out and across the neighbouring gardens. Two of the towers would have small windows which would appear to face towards the host property. The appellant states that the

only open sides would be on the bridges, although this is not clear from the drawings provided as only the proposed southern elevation is shown. Nevertheless, the open bridges would mean that users would be approximately 2 metres from ground level and consequently the existing boundary treatments that are about 2 metres in height would be too low to mitigate against any overlooking.

6. No 14 Ludlow Gardens is located to the north of the appeal site and is relatively well screened by existing trees and shrubs. From the upper windows the play frame is likely to be visible but owing to separation distances and screening I do not consider that in this regard there would be any significant loss of privacy.

7. The play frame would be approximately 3 metres from the eastern boundary that is shared with The White Hart Public House. To the side and rear of the White Hart is a gravelled car parking area and a further grassed area that appears to be laid out as a beer garden. The grassed area would sit immediately adjacent to the location of the play frame. Given the proposed height of the structure and its proximity to the shared boundary users would have open and unobstructed views across the outdoor space to the rear of the public house. I consider that this would have an unacceptable impact on the level of privacy that should reasonably be enjoyed by the patrons of the public house.

8. Whilst I do appreciate that the outdoor space associated with the public house can, in part, be viewed from the public realm, the height of the play frame means that the views would be of the entire area therefore affording the users with little or no privacy. I am also mindful of the fact that the rear outdoor area of the public house is the only available private amenity space for its patrons.

9. The appellant has drawn my attention to the fact that there is an existing play frame to the rear of a neighbouring property to the west. I viewed this play frame during my site visit. It is significantly smaller than that proposed, with a total height of around 2.5 metres which means that users are likely to be screened to a large extent by the adjacent boundary fence which stands at around 2 metres in height. In any event, I have determined this appeal on its individual planning merits.

10. I acknowledge the fact that the garden areas of the host property and its neighbours are already overlooked to an extent by existing first floor windows of the surrounding properties. Nonetheless, the proximity, height and openness of the proposed play frame would give rise to an increased level of overlooking to such an extent that I consider that material harm would be caused.

11. For the reasons outlined above, I conclude that the proposal would not accord with Policies 2 and 3 of South East Lincolnshire Local Plan 2019 which aims, amongst other things, to protect the amenity of the occupiers of neighbouring properties.

## Conclusion

12. For the reasons outlined above, and taking into account all other matters raised, I conclude that the appeal should be dismissed.

*J Hunter*

INSPECTOR