



Appeal Decision

Site visit made on 5 July 2018

by D Guiver LLB (Hons) Solicitor

an Inspector appointed by the Secretary of State

Decision date: 24 October 2018

Appeal Ref: APP/D2510/W/18/3199150

Grange and Links Hotel, Sea Lane, Sandilands, Sutton on Sea LN12 2RA

- 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 Matthew Fletcher against the decision of East Lindsey District Council.
 - The application Ref N/110/00434/17, dated 9 March 2017, was refused by notice dated 24 October 2017.
 - The development proposed is described as outline planning application for proposed mixed-use development on land to the rear of the Grange and Links Hotel.
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Decision

1. The appeal is allowed and planning permission is granted for mixed-use development at land to the rear of the Grange and Links Hotel, Sea Lane, Sandilands, Sutton on Sea LN12 2RA in accordance with the terms of the application, N/110/00434/17, dated 9 March 2017, subject to the conditions in the attached Schedule.

Application for costs

2. An application for costs was made by Mr Matthew Fletcher against East Lindsey District Council. This application is the subject of a separate Decision.

Preliminary Issues

3. The application is made in outline with all matters reserved for future consideration. The application referred to 24 residential units but this was altered during the application process to 22 units. The application for planning permission included a plan showing an indicative site layout and I have considered this drawing and have determined this appeal accordingly.
4. Since the date of the decision the East Lindsey Local Plan Core Strategy 2018 (the Local Plan) has been adopted and therefore this appeal is determined in accordance with that Plan. Policies in the Local Plan, taken together, do not differ from Policies A4 and T12 of the former East Lindsey Local Plan Alteration 1999 (the Former Plan) referred to in the decision notice in any material way that would affect my determination of this appeal.
5. Since the date of the Council's decision, the National Planning Policy Framework 2018 (the Framework) has been published and has effect. Local development plan policies that pre-date the publication should be given due weight according to the degree of consistency with the Framework. The parties

were given the opportunity to comment on the impact of the Framework on the appeal and I have taken all comments into account in this decision

Main Issues

6. The main issues are the effect of the proposed development on:
 - a) the living conditions of the occupiers of neighbouring properties with particular regard to privacy and outlook; and
 - b) the character and appearance of the area.

Reasons

7. The appeal site comprises an irregular-shaped open area to the rear of, and ancillary to, the Grange and Links Hotel. The site is located within a predominantly residential area with nearby properties being a mixture of detached bungalows, dormer bungalows and two-storey houses. The application is for outline planning permission for a mixed-use development, which is shown as comprising approximately 22 flats built at first- and second-floor levels to safeguard against flood risk, with commercial space on the ground floor. The indicative site layout shows the buildings arranged in three blocks in two parallel rows with a landscaped central communal courtyard and parking areas on three sides of the perimeter of the site.
8. The indicative plan also shows an indoor swimming pool facility on one side of the site, perpendicular to the accommodation blocks and located to the rear of the existing building and between existing tennis courts and a large terraced area being retained for the hotel. In assessing a scheme of this nature I have to be confident that the proposal can be suitably accommodated on the site. To this end, although site layout is a reserved matter and the mix of uses could change, the indicative scheme shows one way in which the development could be achieved and the appellant has indicated the illustrative scheme is in line with his current intentions. As such, I have given it weight accordingly.
9. There is an indication that some of the proposed flats would be sold as holiday accommodation with others being retained and operated as part of the hotel business though exact figures are not specified. It is proposed that, as with the hotel, the holiday flats would be available for year-round occupation. There is a further indication that the swimming pool and leisure facilities on the site would be available for use by fee-paying members of the public as well as by hotel and holiday apartment guests. The services in the proposed commercial units would operate as normal businesses open to the public.

Privacy and Outlook

10. The perimeter of the appeal site shares a border with the curtilage of nine or so dwellings with other properties bordering the hotel tennis courts which do not form part of the development site. A number of these are bungalows. The indicative scheme shows that only the building containing the proposed swimming pool would sit close to the boundary. Other than where abutting the pool and the tennis courts, the perimeter of the site would comprise landscaping, car parking and an internal roadway. These elements would provide roughly 15 to 20 metres separation distance between buildings on the site (other than the swimming pool) and the boundary. Neighbouring dwellings generally sit a short distance at least from the boundaries so separation

between properties would be likely to exceed 20 metres. Surrounding dwellings would generally look out towards two-storey elements of the proposed structures save for the property at No. 6 Hornby Drive which would be opposite a three-storey element of one building.

11. The swimming pool building would be close to the perimeter but the property on the other side of the border at 4 Grange Road has a large L-shaped garden and the dwelling's rear elevation is 30 metres or more from the boundary. The property known as Green Ridge on Sea Lane also sits close to the boundary with the site, but no buildings are shown on the indicative plan in this area, which is designated as the car park for the swimming pool.
12. The distances between the neighbouring dwellings and the flats/commercial properties on the site as shown on the indicative plan would not result in any unacceptable loss of privacy. While persons on the site could approach closer to the boundaries than the elevations of the proposed buildings that merely reflects the existing circumstances and therefore the proposal would not have any additional impact on the privacy of residents of the adjoining dwellings.
13. The separation distances, together with indicative proposed landscaping, would also reduce the impact of the buildings in terms of outlook to a degree that would not be harmful to the living conditions of neighbouring occupiers. These distances would also reduce the impact of any overshadowing to within acceptable levels.
14. Therefore, the proposal would be in accordance with Policy SP10 of the Local Plan which seeks to ensure that developments do not harm nearby residential amenities.

Character and Appearance

15. At approximately 0.80 hectares, the appeal site comprises a relatively large plot of land. The proposal would provide for up to 22 accommodation units with commercial units occupying the same footprint. The proposal would amount to fewer than 28 dwellings per hectare and the arrangements of the units into blocks allows for the retention of a considerable area of open amenity space and accommodate the pool. Commercial units would occupy the same footprint as the residential units.
16. Therefore, even accounting for the presence of the swimming pool, the proposal would not amount to over-development of the site and would not be an over-intensive use of the plot. The surrounding buildings vary in height so there would be no detrimental effect on the appearance of the area from the juxtaposition of the proposed buildings and nearby bungalows. Therefore the scheme would be in accordance with Policy SP10 of the Local Plan which seeks to ensure that developments do not harm the character of a settlement.

Other Matters

17. Because of the risk of tidal flooding, the application was accompanied by a Flood Risk Assessment (FRA). The site is within Flood Zone 3 although, given existing coastal defences, Environment Agency data accompanying the FRA suggest that the site is at a low risk of flooding from tidal surge. Through its Strategic Flood Risk Assessment the Council deems that tourist facilities in the coastal area meet the sequential test for the purposes of paragraphs 155 to 158 of the Framework.

18. The proposal would provide a boost for the local economy by increasing tourist facilities and making them available on a year-round basis. Future occupiers of the holiday flats would support the commercial element on site. Some interested parties raised concerns that the development would over-burden local services, while others suggested that the development would take business away from existing providers.
19. Although there are some objections stating that the proposed business use would attract custom away from town centre businesses, there is some evidence before me that Sandilands and Sutton-on-Sea have lost some services in recent years and the proposal therefore represents an opportunity for additional businesses to move into the area. The potential increase in year-round tourism would be likely to support both new and existing enterprises. The commercial element of the development would also provide employment opportunities in the area. The proposed swimming pool would provide an additional leisure facility that would be open to occupants of the holiday flats.
20. I therefore share the Council's view that it is not possible to steer the development to an area with the lowest risk of flooding, and so I turn to the exception test. The FRA detailed measures to be incorporated into the development to mitigate flood risk and these were acceptable to the Environment Agency. Given the nature of the flooding there is no compelling evidence before me that the proposed development or mitigation measures would shift any flood risk elsewhere. Accordingly, the proposal would satisfy both elements of the exception test.
21. The indicative plan shows the site layout with an internal road and a significant number of parking spaces. The Council refers to some traffic and parking issues during specific events but does not identify problems associated with the normal daily use of the site. Nothing in the evidence before me would lead me to conclude that such problems would be likely in the future or that adequate parking for the existing premises and the proposal could not be provided. I note that the highway authority has not raised any objection to the proposal.
22. Interested parties raised concerns about noise and pollution during and after construction but these are not supported by compelling evidence. In any event such matters could be controlled by the Council's wider powers to deal with statutory nuisance. I note that the Council has not raised any concerns about these matters. Similarly, there is a concern about sewage capacity in the area but little information that this is particularly problematic. The relevant statutory undertakers have not opposed the development.
23. An objection was raised stating that the proposed development would result in the loss of a play area. However, the development site is not public open space and therefore any previous use of the land as a play area would have been at the discretion of the landowner. As such discretionary permission could be withdrawn at any time I attach very little weight to this objection. Interested parties also raised an issue with the potential loss in value to existing homes. However, this is not a relevant planning consideration.

Conditions

24. The conditions set out in the accompanying schedule are based on those suggested by the Council. Where necessary I have amended the wording of

these in the interests of precision and clarity in order to comply with the advice in the Planning Practice Guidance.

25. In the interests of proper planning I have imposed the standard conditions in respect of time limits. I have not imposed a condition requiring compliance with the plans as all matters are reserved. To define the scope of the development to that approved I have imposed a condition limiting the number of units and further conditions relating to scale and use of the commercial and residential units and the swimming pool.
26. To ensure that the site is adequately drained and to avoid pollution I have imposed conditions relating to surface and foul water disposal. In the interests of mitigating the risk associated with flooding I have imposed a condition requiring compliance with the measures identified in the FRA and by the Environment Agency and restricted occupancy of the residential elements to holiday accommodation only. To ensure that works to implement the proposal do not have a detrimental impact on the amenity of neighbours I have imposed a condition requiring submission of, and adherence to a scheme of works. I have not imposed a condition relating to the installation and any noise assessment of a biomass boiler and external plant, as these are not definite proposals and therefore any condition would not meet the test of necessity. Should such a boiler become a definite proposal details would be dealt with as part of reserved matters.

Conclusion

27. For the reasons given above, and taking into account all other material considerations, I conclude that the appeal should be allowed.

D Guiver

INSPECTOR

Schedule

- 1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall comprise no more than 22 holiday flats, no more than 390m² (gross) mixed-use commercial space at ground floor level only with maximum single unit size of 112m²) and a single-storey swimming pool facility.
- 5) The proposed flats shall be used for holiday accommodation and for no other purpose (including any other purpose in Class C3 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification) and shall not be occupied by any person as their only or principal home.
- 6) The owner/operator of the site or any of the flats independently owned/operated shall maintain an up-to-date register of the names and addresses of principle homes of all occupiers of the flats and shall make this information available to the local planning authority upon request.
- 7) The proposed commercial space shall be used for retail, services and leisure facilities falling within Use Classes A1, A2, A3 and D1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification) and for no other purpose.
- 8) The proposed swimming pool shall be used only as a swimming pool and for no other purpose (including any other purpose in Class D2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).
- 9) No building hereby permitted shall be occupied until surface water drainage works shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
 - i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged

from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;

- ii) include a timetable for its implementation; and,
 - iii) provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 10) None of the dwellings hereby permitted shall be occupied until works for the disposal of sewage shall have been provided on the site to serve the development hereby permitted, in accordance with details that have first been submitted to and approved in writing by the local planning authority.
- 11) The development hereby permitted shall be carried out in accordance with the Flood Risk Assessment prepared by Lincs Design Consultancy and in particular shall include the following mitigation measures:
- i) finished floor levels shall be set at least 300mm above existing ground level;
 - ii) demountable barriers shall be incorporated into the development for all ground-floor entrances to at least 600mm above finished ground-floor floor level; and
 - iii) residential accommodation shall be located on first- and second-floor levels only at least three metres above existing ground levels.

The mitigation measures shall be fully implemented prior to occupation and thereafter retained.

- 12) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
- i) the parking of vehicles of site operatives and visitors;
 - ii) delivery, loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) wheel washing facilities;
 - v) measures to control the emission of dust and dirt during construction;
 - vi) a scheme for recycling/disposing of waste resulting from demolition and construction works;

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.