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## DEVELOPMENT MANAGEMENT

### APPEALS LIST - 30TH JUNE 2023

<b>APPLICATION NUMBER &amp; SITE ADDRESS</b>	<b>APPEAL REFERENCE &amp; STATUS</b>	<b>OFFICER &amp; PROCEDURE</b>
DM/0046/22/TPO  24 Park Avenue Grimsby North East Lincolnshire DN32 0DQ	AP/020/22  INPROG	Paul Chaplin  Fast Track
DM/0285/22/FUL  Land Off Torbay Drive Waltham North East Lincolnshire	AP/002/23  INPROG	Richard Limmer  Written Representation

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## Appeal Decision

Site visit made on 1 June 2023

by **Louise Crosby MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 15 June 2023

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**Appeal Ref: APP/B2002/W/23/3315667**

**Rear of 219/221 Cleethorpe Road, Grimsby, North East Lincolnshire, DN31 3BE**

- 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 DEJ Developments Ltd against the decision of North East Lincolnshire Council.
  - The application Ref DM/0834/22/FUL, dated 12 September 2022, was refused by notice dated 24 November 2022.
  - The development proposed is a rear three storey extension to form four flats.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are:
  - i) The effect of the proposal on the character and appearance of the surrounding area;
  - ii) The effect of the proposal on living conditions at neighbouring properties and for future residents of the proposed scheme; and
  - iii) Whether the proposal would result in unacceptable flood risk.

### Reasons

#### *Character and appearance*

3. The proposed 3 storey flat roofed building would cover most of the existing outdoor space at the rear of Nos 219 and 221. The appeal properties are traditional 2 storey terraced properties with 2 storey rear outriggers. The extension would be significantly higher than the outriggers it would adjoin and be about as high as the eaves of the three storey part of the existing terrace.
4. To the rear of No 223 there is a large flat roofed building that is a similar height to that proposed here. This is built along the boundary with No 221 and comprises a solid brick wall along the boundary. To the rear of the appeal site is an engineering works. Indeed, this is a predominantly commercial area with a mix of businesses fronting Cleethorpe Road and various industrial uses in the streets at the rear of the appeal site. Opposite the appeal site, on the opposite side of Cleethorpe Road, there are some blocks of flats and there are also flats above some of the businesses, including at the appeal site.

5. The appearance of the surrounding area is generally one of traditional Victorian terraces with various development in the rear yard areas as well as modern industrial buildings.
6. Whilst the rear yards in this part of the street have been developed in various ways, I have serious concerns about this proposal which would result in the rear yards of both properties being almost entirely developed. The extension has been designed to maximise the amount of development that the site can contain and in doing so has resulted in an awkward and incongruous design.
7. It would relate poorly to the existing pitched roof terraced properties with outriggers that are subservient to the main buildings. The extension would appear overly large and jarring. The bay windows would add to the incongruity and are symptomatic of the site being overdeveloped.
8. The fact that other yards have been developed to a significant degree does not change my assessment of this case nor does the fact that there would be limited views of the extension from outside of the immediate area. Also, whilst the proposal would secure the removal of the unsightly steel storage container within the rear yard of No 219, the significantly larger building proposed here would be far more harmful to the character and appearance of the surrounding area.
9. I find that the proposal would have a significant adverse effect on the character and appearance of the area, contrary to North East Lincolnshire Local Plan (2013-2032) (LP) policy 5 in so far as it seeks to ensure that all development proposals have regard to the size, scale and density of the proposed development and policy 22 which requires high standards of design including a thorough consideration of the particular site's context.

#### *Living conditions*

10. The proposal would create 4 No 2 bedroomed flats over 2 floors with an open area below for bin and cycle storage. The flats which would be built close to the side boundaries have been designed with only side bay windows to prevent any overlooking of adjacent properties.
11. Each bedroom would have one small window and the living/kitchen areas two windows. In some cases, these would face other similar windows in the extension and in others they would look back towards the host property or out to an engineering business premises. To protect privacy some of the windows would contain opaque glazing. Consequently, future occupiers would be deprived of an outlook from some of the windows and all of the flats would suffer from a lack of natural light.
12. Indeed, all of the rooms in the flats would be dependent on artificial lighting most of the time because of the size and location of the proposed windows. This would in my view create unacceptable living conditions that would be seriously detrimental to the wellbeing of the residents.
13. In addition the proposal would result in very little open outdoor amenity space in what is predominantly a commercial area. This adds to the concerns I have about the living conditions of future occupiers. The access would be from Cleethorpe Road which would be safe and acceptable.

14. Turning to consider the living conditions of existing residents, there are windows in the rear elevations of Nos 219 and 221 and other nearby properties which serve residential flats and which would remain. The outlook from these windows would be severely impaired by the proposed development as a result of its scale and mass. These windows would look directly towards the bay windows of the proposed development and vice versa. Opaque glazing in these would prevent overlooking but create very poor living conditions for the occupiers of these flats, as set out above.
15. I conclude on this issue that the proposal would have a severe detrimental effect on the living conditions of existing and future residents. As such the proposal would conflict with LP policy 5 in so far as it seeks to protect residential amenity.

#### *Flood risk*

16. National planning policy aims to direct housing to areas at least risk of flooding. The appeal site is in a high flood risk area (Flood Zone 3) and therefore housing development such as this must pass a sequential test.
17. Planning Practice Guidance (PPG) at paragraph 23, explicitly states firstly, that the Sequential Test “means avoiding, so far as possible, development in current and future medium and high flood risk areas considering all sources of flooding including areas at risk of surface water flooding”, and secondly, that “Even where a flood risk assessment shows the development can be made safe throughout its lifetime without increasing risk elsewhere, the sequential test still needs to be satisfied.”
18. From the information before me it appears that the appellant has carried out a Flood Risk Assessment which identifies the level of risk of flood from various sources and recommends various flood protection measures, but no sequential test has been carried out.
19. The appellant has drawn my attention to a number of other residential schemes that have been granted planning permission in the same flood zone, in the surrounding area. I have little detail about these schemes, but the one where a planning reference has been provided the Council have confirmed that the sequential test was passed in that case. The Council also suggest that some of the others may have been conversions which are exempt from the need to pass a sequential test. Importantly, I have dealt with this case on the basis of the information before me and the very clear Government guidance on dealing with such matters.
20. On this basis alone the appeal must fail as it is in direct conflict with the advice in PPG and the Framework. It also fails to accord with LP policy 5 in so far as it seeks to restrict development where flood risk would be unacceptable and policy 33 which requires development proposals to have regard to the requirements of the flood risk sequential test as set out in national planning policy guidance.

#### **Other matter**

21. Whilst the proposal would provide some small and therefore more affordable living accommodation in a sustainable location this benefit does not outweigh the harm I have identified in relation to my main issues.

**Conclusion**

22. For the reasons given above I conclude that the appeal should be dismissed.

*Louise Crosby*

INSPECTOR