

Development Management Delegated Decision Report

B/21/0061



SUMMARY OF APPLICATION

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Application Reference	B/21/0061		
Application Type	Full Planning Permission		
Proposal	Single storey detached dwelling		
Location	Land adj to 69, Middlegate Road West, Frampton, Boston, PE20 1DA		
Applicant	Mr C Thornhill		
Agent	G R Merchant Ltd		
Received Date:	11-Feb-2021	Consultation Expiry Date:	09-Mar-2021
Valid Date:	15-Feb-2021	Statutory Expiry Date:	12-Apr-2021
Date of Site Visit:	02-Mar-2021	Extension of Time Date:	
Objections received?	Yes		
5 day notification record:			
Councillors notified	Date	Response received – date	Ok to continue
Cllr N Welton	29/03/21	No response received – 08/04/21	Ok
Cllr D Brown	29/03/21	No response received – 08/04/21	Ok
Cllr P Watson	29/03/21	In agreement with the recommended decision – 30/03/21	Ok
Recommendation	REFUSE		
Report by:	Grant Fixter		
Date:	08/04/2021		

OFFICER REPORT

SITE AND SURROUNDINGS:

The application site is roughly rectangular in shape and the South East Lincolnshire Local Plan identifies the site to be within the settlement boundary for Kirton. The site comprises a small area of hardstanding/ rubble with the remainder of the site comprising gravel. The site is essentially surrounded by residential development and is bounded by close boarded fencing to the east, south and west. At the time of the previous submission there was low level close boarded fencing to the northern boundary but this has since been removed.

There is a container on the south west area of the site and it appears groundworks have commenced in some form to the north extent of the site. This was raised with the Senior Enforcement Officer and matters are on hold until the outcome of this submission has been finalised.

DETAILS OF PROPOSAL:



This proposal seeks full planning permission for the erection of a detached single storey dwelling, measuring approximately 2.82m to the eaves and 5.45m to the ridge.

The proposed dwelling is set back from the highway edge, with off street parking provided to the front of the property.

Full details of the proposal are shown on the following submitted plan:

- 3683-20 01B – Location Plan and Existing Site Plan;
- 3683-20 05B – Proposed Ground Floor Plan & Elevations.

RELEVANT HISTORY:

B/20/0329 - Two storey detached dwelling – Refused on 03/11/2020 for the following reasons:

- 1. The proposed dwelling by reason of its size, position and close relationship with the neighbouring properties would lead to a cramped form of development which would be out of keeping when compared against surrounding development and would negatively impact the character of the area. The proposed dwelling would result in an incongruous form of development which would negatively impact the streetscene given the building would be sited towards the frontage of the plot where the exposed blank western gable end and extra brickwork below floor level would detract from the streetscene. The proposal, therefore, fails to accord with Policies 2 and 3 of the South East Lincolnshire Local Plan (2011-2036) and Section 12 'Achieving Well-designed Places' of the National Planning Policy Framework (2019).*
- 2. The siting of the dwelling within the plot would not be in keeping with the surrounding built form and would negatively impact of the amenity of occupiers of nearby dwellings in regard to an adverse effect to outlook and increase in dominance to No 69 and 67 Middlegate Road West, in addition to overlooking and a loss of privacy for No 67 Middlegate Road West. The proposal, therefore, fails to accord with Policies 2 and 3 of the South East Lincolnshire Local Plan (2011- 2036) and Section 12 'Achieving Well-designed Places' of the National Planning Policy Framework (2019).*

APP/Z2505/W/19/3240611 – Appeal made against the refusal to grant planning permission for application B/19/0144 – Appeal dismissed on 20/03/2020;

To summarise the Inspector's report, they concluded:

1. The proposed dwelling would appear cramped on a plot of this size and would not be in keeping with the character and appearance of the area;
2. As the floor levels were raised by 800mm, the extra brickwork that would be visible below the floor level would be an incongruous feature and would be out of keeping with the surrounding properties;
3. The proposed dwelling would have been set slightly behind the Middlegate Road frontage of No 69 but forwards of No 67. The western gable end of the proposed dwelling would therefore be highly visible to those travelling along the street from the west. The western gable end of the proposed dwelling would appear stark without any fenestration in contrast to the elevation of number 69, where the openings provide some relief to this prominent elevation. Consequently, the proposed dwelling would detract from the appearance of the street scene;

4. Potential loss of privacy for 13 Grosvenor Road;
5. Due to the forward projection and the closeness to the boundary, the proposed dwelling would cause an overbearing impact to the first-floor front window at No 67;
6. The raised nature of the proposed patio and the proximity to the boundary of No 67 means there would be overlooking issues with No 67;
7. Windows on the side elevation of No 69 would suffer a loss of outlook as a result of the proposed dwelling.

B/19/0144 – Two storey detached dwelling – Refused on 28/08/2019 for the following reasons:

1. *The development of this land would lead to a cramped form of development that would be considered out of character with the prevailing built form of the area and the siting of the dwelling towards the frontage of the plot would also be viewed as an incongruous form of development within the streetscene. The proposal therefore fails to accord with Policies 2 and 3 of the South East Lincolnshire Local Plan (2011-2036) and Section 12 'Achieving Well-designed Places' of the National Planning Policy Framework (2019)*
2. *The position of the dwelling within the plot and its elevated position to account for flood risk issues would result in a poor relationship with the surrounding built form that would have a harmful impact on the amenities of occupiers of nearby dwellings in respect of overlooking/loss of privacy, dominance and visual intrusion. The proposal therefore fails to accord with Policies 2 and 3 of the South East Lincolnshire Local Plan (2011-2036) and Section 12 'Achieving Well-designed Places' of the National Planning Policy Framework (2019).*

B/18/0383 – Erection of detached two-storey dwelling – Refused on 13/12/2018 for the following reasons:

1. *The development of this land would be out of character with the prevailing built form of the area and would result in a cramped development with poor private amenity space for future residents. As such, it is considered that the development would be harmful to the character of the area as well as the enjoyment of occupiers of the dwelling and therefore contrary to the provisions of Policy G1 of Boston Borough Local Plan 1999 and the design standards within the National Planning Policy Framework 2018.*
2. *The proposed dwelling will be directly accessed off Middlegate Road West. The proposed development does not contain any provision within the site to enable a vehicle to enter and leave the site onto Middlegate Road West in forward gear. Given the nature of this road and its proximity of the site from the junction of Middlegate Road West and London Road, it is considered that the proposed development will cause significant harm to highway safety. The proposal is therefore contrary to Policy G6 of the Boston Borough Local Plan 1999.*
3. *The application site is located within a flood risk area and paragraph 163 of the National Planning Policy Framework 2018 requires applications for planning permission for development in such areas to be accompanied by a Flood Risk Assessment. This application does not contain a Flood Risk Assessment and therefore the flood risks resulting from this development are unknown. No information has been submitted which clearly demonstrates that the development will be safe, will not increase risk elsewhere and where possible will reduce flood risk overall. The proposed development*

is therefore contrary to the objectives of Boston Borough Local Plan 1999 policy H3 and the National Planning Policy Framework (2018).

RELEVANT DEVELOPMENT PLAN POLICIES AND DOCUMENTS:

South East Lincolnshire Local Plan (2011-2036)

The following policies contained within the South East Lincolnshire Local Plan (2011-2036) (i.e. SELLP) are relevant to this application:

- Policy 1 – Spatial Strategy;
- Policy 2 – Development Management;
- Policy 3 – Design of New Development;
- Policy 4 – Approach to Flood Risk;
- Policy 5 – Meeting Physical Infrastructure and Service Needs;
- Policy 10 – Meeting Assessed Housing Needs;
- Policy 11 – Distribution of New Housing;
- Policy 17 – Providing a Mix of Housing;
- Policy 30 – Pollution;
- Policy 31 – Climate Change and Renewable and Low Carbon Energy;
- Policy 36 – Vehicle and Cycle Parking.

OTHER RELEVANT DOCUMENTS / LEGISLATION / GUIDANCE:

National Planning Policy Framework (2019)

At the heart of the 2019 Framework is a presumption in favour of sustainable development. The following sections are relevant to this scheme:

- Section 2 – Achieving Sustainable Development;
- Section 4 – Decision Making;
- Section 5 – Delivering a Sufficient Supply of Homes;
- Section 11 – Making Effective Use of Land;
- Section 12 – Achieving Well-designed Places;
- Section 14 – Meeting the Challenge of Climate Change, Flooding and Coastal Change.

CONSULTATION RESPONSES:

Black Sluice Internal Drainage Board

Did not respond.

Frampton Parish Council

Have no objections and made the following comments:

- There are no bungalows in the vicinity of no. 69 and believe Ashwood Homes were not allowed bungalows due to flood risk;
- The Flood Risk Assessment refers to a house and not a bungalow.

Lincolnshire County Council

Have no objections.

Environment Agency

When considering the hazard depths and ratings for the site and the fact the proposal is single storey in nature, it was considered prudent to consult the Environment Agency.

On 02/03/21 the following comments were made:

- Have no objections as long as a condition was attached to any permission which secured mitigation measures outlined in the FRA:
 - FFL no lower than 500mm above existing ground level;
 - Must have at least two storey's;
 - Flood resilience and resistance measures to be incorporated into the proposed development as stated.
- Advise a Flood Warning and Evacuation Plan is produced for the development in order to address the residual risks of flooding at the site and to confirm the approach that will be taken for safe evacuation of the area.

Upon review of the above comments, the agent noticed the FRA was still referring to a two storey build and submitted an amended FRA for a one storey build.

The EA were subsequently re-consulted and on 25/03/21 **objected** to the proposal:

"I refer to our previous letters (dated 02 March 2021) where we recommended that the proposed development will only meet the requirements of the National Planning Policy Framework if the mitigation measures as detailed in the Flood Risk Assessment were implemented and secured by way of a planning condition on any planning permission.

*We have reviewed the updated FRA (dated March 2021, prepared by G R Merchant LTD) and confirm in the absence of an acceptable Flood Risk Assessment (FRA) we **object** to the above application.*

Reasons

The submitted FRA does not comply with the requirements for site-specific flood risk assessments, as set out in paragraphs 30 to 32 of the Flood Risk and Coastal Change section of the planning practice guidance. The FRA does not therefore adequately assess the development's flood risks.

In particular, the FRA fails to: In particular, it does not propose appropriate mitigation measures to ensure that the development will be safe for its lifetime. The mitigation proposed is not in accordance with our local flood risk standing advice.

Overcoming our objection

The applicant can overcome our objection by submitting an amended FRA which covers the deficiencies highlighted above and demonstrates that the development will

be safe, not increase risk elsewhere and where possible will reduce flood risk overall. If this cannot be achieved we are likely to maintain our objection to the application.

For depths of 0.5-1m, the standing advice is that finished floor levels should be set 1m above existing ground level, with flood resilient construction to 300mm above predicted flood depth...”

THIRD PARTY REPRESENTATIONS RECEIVED:

No third party representations have been received.

EVALUATION:

The key considerations in regards to this application are set out below:

- Principle of development;
- Impact on the character and appearance of the area;
- Impact on residential amenity;
- Highway safety and parking;
- Flood risk.

Principle of development

Policy 1 of the SELLP sets out the settlement hierarchy, stating development will be permitted within the settlement boundaries of the respective settlements providing the proposal supports the designated role of the settlement in which it is to be executed. Applications in the countryside (outside of settlement boundaries) will be approved provided it is necessary to its location and/ or can be demonstrated that it meets sustainable development needs of the area.

As shown on ‘Inset Map 6 – Kirton’ of the SELLP, the site is located within the settlement boundary for Kirton which is identified as a Main Service Centre. The SELLP indicates that Main Service Centres generally consist of those settlements seen to perform significant service roles.

The proposal is for one residential dwelling within the settlement boundary which would make a limited but positive contribution to housing supply.

The principle of residential development on this site is acceptable subject to the objectives of the relevant policies in the SELLP as identified above being met.

Impact on the character and appearance of the area

Policy 2 of the SELLP states that proposals requiring planning permission will be permitted provided that sustainable development considerations are met. These include size, scale, layout, density and impact on the amenity, trees, character and appearance of the area as well as the quality of its design and orientation.

Policy 3 of the SELLP states all development must create a sense of place by respecting the density, scale, visual closure, landmarks, views, massing of neighbouring buildings and the surrounding area.

Paragraph 127 of the NPPF states that developments should add to the overall quality of the area, not just for the short term but over the lifetime of the development, be visually attractive and sympathetic to local character with a high standard of amenity for existing and future users.

Paragraph 130 of the NPPF advocates that where a development is a poor design that fails to take the opportunities available to improve the character and quality of an area planning permission should be refused.

When assessing the impact on the character and appearance of the area, it would be prudent to consider the previous application's Officer Report and the Inspector's report for the recent appeal. This allows an appropriate evaluation to take place and to consider if this proposal overcomes the previously identified issues.

The proposal is for a single storey dwelling that measures approximately 2.82m to the eaves and 5.45m to the ridge.

The first issue with the previous appeal and refusal which followed was the close positioning of the dwelling to the boundary of No. 67. It was stated in the recent refusal that whilst the scale of the build has reduced in height slightly, it was still two storey in nature, meaning the gap between the proposal and No.67 was both more noticeable and greater exacerbated. In turn, it was deemed the proposal would appear cramped and not in keeping with the character of the area, so that particular issue from the appeal proposal had not been overcome.

Turning to this proposal, the scale of the build has now been further reduced to one storey, so the efforts to overcome this issue have not gone unnoticed. From attending site and reviewing the submission, the officer is still of the view that whilst the impacts will be slightly reduced, the narrow gap between the proposal and No. 67 will still be noticeable. Given the size and context of the site, the proposal would also still lead to a cramped form of development on a small parcel of land. Cramped development would detract from the character of the area and will not be in keeping with surrounding development. So whilst efforts have been made to overcome this issue, the officer is of the view the development will still appear cramped in nature and this weighs against the proposal.

The inspector had concerns regarding raising of the finished floor level by 800mm and how the extra brickwork would lead to an incongruous feature which would be out of keeping with surrounding properties. The refusal which followed made efforts to overcome this and reduced the finished floor level from 800mm to 500mm. Whilst the efforts were noted, it was still deemed the extra brickwork would be out of keeping with the character and appearance of the area and the issue had not been overcome.

This proposal also shows the finished floor level to be raised by 500mm on flood risk grounds. This was deemed an issue on the two storey build and will be greater exacerbated with this proposal given it is only one storey in nature. This issue has, therefore, not been overcome and the extra brickwork would be an incongruous feature and out of keeping with the area. It is also worth noting that should the proposal remain one storey in nature, the EA have stated

the FFL would have to be raised by a further 500mm, equating to 1m above ground level. Of course, this will further exacerbate the problem.

The next issue was the siting of the dwelling. The inspector deemed that by virtue of the dwelling being set forward of No. 67, the blank western gable end will have a stark presence in the streetscene. The refusal which followed made efforts to overcome this by siting the proposal slightly further into the site but it was deemed the blank elevation would detract from the streetscene.

This proposal, again, has the same issue. By virtue of the size of the site, any dwelling will always be set forward of No 67 which will lead to the blank western gable end of the proposal being extremely noticeable from the streetscene. The current openings of No. 69 provide some relief to the streetscene, whereas this proposal would lead to a blank elevation with no fenestration. This issue, therefore, has not been overcome and the proposal would still detract from the streetscene.

As with the previous refusal, whilst efforts have been made to overcome the previous issues, due to the nature and size of the application site, the issues still remain. This proposal, therefore, will detract from the character of the area by forming cramped development and will also detract from the street scene.

The proposal, therefore, is contrary to policies 2 & 3 of the SELLP and the principles of good design and sustainable development advocated by the NPPF.

Impact on residential amenity

SELLP Policy 2 and 3 seek to ensure that a new development does not significantly impact neighbouring land uses by reason of noise, odour, disturbance or visual intrusion.

First, the impacts on the amenity of No.67 will be considered. Concern was raised in both the appeal proposal and the refusal which followed regarding the raised patio to the rear of the proposal. It was deemed the last refusal had not done enough to overcome this issue which the inspector raised.

As with the recent refusal, this proposal includes a virtually identical patio to the rear which will be raised by 500mm to match the FFL of the rest of the build, in addition to the inclusion of bi-fold doors. The boundary between No. 67 and this site comprises a 1.8m close boarded fence and given the patio is raised by 500mm, the fence essentially affords 1.3m of privacy. Given the proximity of this proposal to No 67, the patio itself and the fact there is the provision of bi-fold doors which will lead onto the patio, overlooking would still be an issue. This concern from the previous refusal, therefore, has not been overcome.

Whilst it will not be as bad as the previous refusal, the proposal will still lead to the outlook from the first floor window of No. 67 which serves a habitable room being impacted. The same goes for the first floor windows of No. 69, whilst the impact will not be as bad as the previous refusal, the outlook of said windows will still be negatively impacted. This issue has, therefore, not been overcome.

Finally, it is important to consider the amenity of potential future occupiers. Whilst No. 67 would present no issues, No. 69 would. By virtue of No.69 having a different orientation, there

would be first floor windows which directly overlook the rear garden of any proposed development.

It is therefore considered that the proposal would be contrary to policies 2 & 3 of the SELLP in respect of residential amenity and the principles of sustainable development advocated by the NPPF.

Highway safety and parking

Policy 36: Appendix 6 of the SELLP relates to parking standards. It requires 2 spaces for dwellings with up to 3 bedrooms and 3 spaces for dwellings with 4 or more bedrooms. It also requires 1 cycle space within each residential plot.

Access will be achieved off Middlegate Road West and from the submitted plans there is provision for 2 off street parking spaces and a turning head within the proposed dwelling's curtilage. Vehicles, therefore, will be able to enter and leave the site in a forward gear which is of significant importance when considering highway safety.

The Local Highway Authority do not object to the scheme, appropriate parking provision can be provided and vehicles can enter and leave the site in a forward gear. It is not considered the traffic that may be generated from one dwelling will harm highway safety.

The proposal is, therefore, acceptable and highway safety and parking grounds.

Flood risk

Policy 4 of the SELLP states a proposed development within an area of flood risk (Flood Zones 2 and 3) will be permitted where it can be demonstrated that there are no other sites available at a lower risk of flooding, that it is essential infrastructure in FZ3a & FZ3b, it is highly vulnerable development in FZ2 or is more vulnerable development in FZ3 provide wider sustainability benefits to the community that outweigh flood risk. Where supported by a site specific flood specific risk assessment a criteria will need to be adhered to.

The application site is within Flood Zone 3 and a Flood Risk Assessment forms part of this submission which outlines a number of mitigation measures that should be included in the design of the proposal. One of which was to raise the FFL by 0.5m above existing ground level.

The EA were consulted and originally, did not object subject to a suitable condition being attached which secured mitigation measures. Their comments, however, were based on a Flood Risk Assessment for a two storey dwelling.

A revised FRA for a one storey dwelling was submitted and the EA were re-consulted accordingly.

Upon re-consultation, the EA withdrew their previous comments and objected to this proposal. It was confirmed the FRA does not propose appropriate mitigation measures which will ensure the development is safe for its lifetime. The mitigation proposed does not accord with their standing advice, with the key comment being:

“For depths of 0.5-1m, the standing advice is that finished floor levels should be set 1m above existing ground level, with flood resilient construction to 300mm above predicted flood depth.”

This proposal would, therefore, need to be raised by a further 0.5m above ground level, so the FFL for any one storey build would have to be 1m above the existing ground level.

The proposal, therefore, is not acceptable on flood risk grounds as the mitigation proposed is not in accordance with the EA standing advice and would result in a development which is not safe for its lifetime.

The proposal is, therefore, contrary to Policy 4 of the SELLP and Section 14 of the NPPF on flood risk grounds.

CONCLUSION:

As always, it is important to consider the planning balance.

The application site is within the settlement boundary of Kirton which is a Main Service Centre. Subject to meeting the other relevant objectives of the relevant policies of the SELLP, the principle of development was deemed acceptable.

There are no concerns on parking or highway safety grounds, as the required parking provision can be met, turning can be accommodate within the site and there were no objections from the Local Highway Authority.

There are, however, a number of issues with the proposal, all of which weigh against the submission and in the end, make it an unfavourable decision.

Whilst efforts were made to overcome the previous issues, as with the recent refusal, these were not overcome. Given the size and context of the site, the proposal will still lead to a cramped form of development which will detract from the character and appearance of the area, whilst the blank western gable end will detract from the streetscene. The extra brickwork needed to raise the FFL will still lead to an incongruous feature and be out of keeping with surrounding development and detract from the character and appearance of the area.

Turning to amenity, the raised patio and bi-fold doors to the rear will lead to overlooking issues for No. 67, as the build is extremely close to their boundary and the boundary is a 1.8m close boarded fence. As the patio is raised by 500mm, this effectively means the boundary fence only offers 1.3m of privacy. The outlook of first floor windows for No. 67 and No. 69 will still be impacted.

Unlike previous refusals, this application is also unacceptable on flood risk grounds. The EA object to the scheme as the FFL should be raised by 1m, meaning the proposal would not meet EA standing advice and the proposed mitigation would make the development not safe for its lifetime. This would also further exacerbate impacts on the character of the area and amenity.

The proposal, therefore, does not comply with local and national policy and does not meet the sustainable development considerations.

A note on the site itself, there have already been three refusals and one dismissed appeal, and this refusal will now make it four refusals on the site. The proposals have comprised two storey dwellings, the recent refusal being two storey but resembling a chalet/ dormer bungalow and this proposal being one storey. Whilst reducing the proposal to one storey was done in an attempt to overcome the previous issues, on the whole they remained and the one storey nature also presents a new issue in flood risk terms. Should it be one storey, the FFL would need to be raised by 1m which would further exacerbate existing issues. Whilst each application is assessed on its own merits, it is clear that each form of development either has the same issues or present issues which others may not.

It is also worth noting as of the 31st March 2020, the Council could demonstrate a 5.2 year housing land supply, therefore, the policies can be given full weight when considering the proposal.

RECOMMENDATION:

REFUSE.

CONDITIONS / REASONS	
Pre-commencement conditions?	Agreed with applicant/agent - Date:
1	By virtue of the size and context of the site and the proposed dwelling's size, position and close relationship with the neighbouring properties, the proposal would lead to a cramped form of development which would be out of keeping when compared against surrounding development and would negatively impact the character of the area. This would result in an incongruous form of development which would negatively impact the streetscene given the building would be sited towards the frontage of the plot where the exposed blank western gable end and extra brickwork below floor level would detract from the streetscene. The proposal, therefore, fails to accord with Policies 2 and 3 of the South East Lincolnshire Local Plan (2011-2036) and Section 12 'Achieving Well-designed Places' of the National Planning Policy Framework (2019).
2	The siting of the dwelling within the plot would not be in keeping with the surrounding built form and would negatively impact the amenity of the occupiers of No 69 and 67 Middlegate Road West through a loss of outlook. The proposed development would also result in overlooking and a loss of privacy for No 67 Middlegate Road West. The proposal, therefore, fails to accord with Policies 2 and 3 of the South East Lincolnshire Local Plan (2011-2036) and Section 12 'Achieving Well-designed Places' of the National Planning Policy Framework (2019).
3	The application site is located within a flood risk area and Policy 4 of the South East Lincolnshire Local Plan and Section 14 of the National Planning Policy Framework requires development in such areas to be accompanied by a Flood Risk Assessment. The Flood Risk Assessment which accompanies this application proposed mitigation measures which would not comply with the Environment Agency's standing advice, as the finished floor level being raised by 0.5m above the existing ground level is not adequate and will not make the development safe from flooding for its lifetime. The finished floor level would need to be raised by 1m above the existing ground level with flood resilient construction to 300mm above predicted flood depth. The proposed development would not be safe and acceptable on flood risk grounds and, therefore,

	fails to accord with Policies 2, 3 and 4 of the South East Lincolnshire Local Plan (2011-2036) and Section 14 'Meeting the Challenge of Climate Change, Flooding and Coastal Change' of the National Planning Policy Framework (2019).
	<p>This application has been considered and refused on the basis of the following plans:</p> <ul style="list-style-type: none"> • 3683-20 01B – Location Plan and Existing Site Plan; • 3683-20 05B – Proposed Ground Floor Plan & Elevations.

INFORMATIVES / NOTES TO BE INCLUDED ON/WITH DECISION NOTICE	
<p><u>STATEMENT OF PROACTIVE WORKING:</u></p> <p>In determining this application, the authority has taken account of the guidance in paragraph 38 of the National Planning Policy Framework 2019 in order to seek to secure sustainable development that improves the economic, social and environmental conditions of the Borough.</p>	