



**Guildhall Gainsborough
Lincolnshire DN21 2NA
Tel: 01427 676676 Fax: 01427 675170**

This meeting will be recorded and published on the website

AGENDA

**Planning Committee
Wednesday 9 January 2013 at 6.30 pm
The Council Chamber, Guildhall, Gainsborough**

Members: Councillor Chris Underwood-Frost (Chairman)
Councillor Stuart Curtis (Vice-Chairman)

Councillors Owen Bierley, Alan Caine, David Cotton, Richard Doran,
Ian Fleetwood, Malcolm Leaning, Giles McNeill, Jessie Milne, Roger
Patterson, Judy Rainsforth

1. Apologies for absence.
2. Public Participation Period. Up to 15 minutes are allowed for public participation. Participants are restricted to 3 minutes each.
3. Minutes.
Meeting of the Planning Committee held on 28 November 2012, previously circulated.
4. Members' Declarations of Interest.

Members may make any declarations of interest at this point but may also make them at any time during the course of the meeting.
5. Update on Government/Local Changes in Planning Policy

Agendas, Reports and Minutes will be provided upon request in the following formats:

Large Clear Print: Braille: Audio Tape: Native Language

6. Planning Applications for Determination
Print herewith PL.10 12/13
Summary below

PAPER A

1 Planning Application No: 128606

PROPOSAL: Planning application to instal 2 no. 50kw wind turbines and ancillary works - 35m height to tip of blade

LOCATION: Heath Farm Normanby Cliff Road Normanby-By-Spital Market Rasen, Lincolnshire LN8 2AE

RECOMMENDED DECISION: Grant permission subject to conditions

7. Planning Application Site Visit
Print herewith PL.11 12/13

PAPER B

8. To note the following determination of appeals:

i) Appeal by Mr Nigel Taylor against West Lindsey District Council's refusal to grant planning permission for demolition of existing property and replace with two semi-detached properties at 21 Carr Lane, East Stockwith.

Appeal dismissed – see copy letter attached as Appendix A

Officer's original recommendation to refuse.

M Gill
Chief Executive
The Guildhall
Gainsborough

28 December 2012



Appeal Decision

Site visit made on 3 December 2012

by Susan Heywood BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 19 December 2012

Appeal Ref: APP/N2535/A/12/2180885

21 Carr Lane, East Stockwith, Gainsborough, Lincolnshire DN21 3DP

- 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 Nigel Taylor against the decision of West Lindsey District Council.
 - The application Ref 128162, dated 10 January 2012, was refused by notice dated 19 March 2012.
 - The development proposed is described as: "demolition of existing property and replace with two semi-detached properties".
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are as follows:
 - i. the flood risk implications of the development;
 - ii. whether the proposal would be acceptable having regard to local and national policies relating to the location of new housing development;
 - iii. the impact of the development on the living conditions of the adjoining occupiers at No. 23 having regard to the potential for overlooking.

Reasons

Flood risk

3. Policy Strat 1 of the West Lindsey Local Plan First Review 2006 aims to avoid utilising land subject to flood risk. The National Planning Policy Framework (the Framework) and the Technical Guidance¹ advise that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. The appeal site lies within Flood Zone 3a; an area with a high probability of flooding from the River Trent which lies between 114m and 135m from the site.² The Environment Agency (EA) have objected to this development on the grounds of flood risk.
4. The parties agree that, based on the Technical Guidance, the development of one additional dwelling would be classed as 'more vulnerable' and that the

¹ Technical Guidance to the National Planning Policy Framework

² 135m in the appellant's Flood Risk Assessment, 114m according to the Environment Agency

- Sequential and Exception Tests are required to be met. The Sequential Test aims to steer development to areas with the lowest probability of flooding. Only if there are no reasonably available sites in Flood Zones 1 and 2 should the suitability of sites in Flood Zone 3 be considered.
5. The Council's committee report indicates that they would consider the Sequential Test at a local level, rather than district-wide. However, they reach no conclusion on this matter. I have no evidence from either party to enable me to determine whether or not there are sites available for a dwelling which are at a lower risk of flooding. I am therefore unable to determine whether the Sequential Test can be met.
 6. Nevertheless, the Technical Guidance requires both the Sequential and Exception Tests to be passed. For the Exception Test to be passed it must be demonstrated that the development provides wider sustainability benefits to the community that outweigh flood risk and a flood risk assessment (FRA) must demonstrate that the development will be safe for its lifetime, not increase flood risk elsewhere and, where possible, reduce flood risk overall.
 7. The FRA indicates that the site is located at a higher level than surrounding land and that finished floor levels of the new dwellings would be 3.50m above ordnance datum (AOD). However, it acknowledges that this would still be below the 1 in 200 year flood event and that the flood level would be classified as 'dangerous for all' in the EA's guidance document *Flood Risk Assessment Guidance for New Development*.³
 8. Based on the Tidal Trent Flood Risk Management Strategy, the EA have stated that the 1 in 200 year flood event would lead to a flood level of 5.997m AOD at the site. I acknowledge that there are flood defences in place alongside the river. Nevertheless, according to the EA, in the event of a breach of the river defences, flooding at the site would reach approximately 1.4 metres in depth, the flooding would occur quickly and with fast flowing water. There is therefore a danger from flooding to occupiers of dwellings on this site in the event of a breach of the river defences.
 9. I acknowledge that there are other dwellings along this road and an existing dwelling on the site. However, the proposal would result in an increase in the number of households who would be vulnerable if a breach were to occur. Not only would the occupiers of the development themselves be at risk in such circumstances, but so would the safety of the emergency services who would be tasked with any rescue.
 10. The appellant has drawn my attention to the adjoining dwelling at No. 23 which, they say, the EA did not object to in 2005 (although I note that the EA have no record of this). In any case, this pre-dates current national planning policy contained in the Framework (and the previous policy contained in Planning Policy Statement 25 *Development and Flood Risk*). It does not justify the erection of further vulnerable development in the light of current Government guidance. I note that No. 23 is set at a higher level than the appeal site and that this may have increased the run-off of surface water onto the appeal site. However, it is flooding from the River Trent which is at issue in this appeal rather than any potential problems with surface water.

³ R&D Technical Report FD2320/TR2 *Flood Risk Assessment Guidance for New Development* Defra / Environment Agency

11. I note that the dwelling now on the site was previously two dwellings. Nevertheless, this appears to have been some considerable time ago. The prevalence and intensity of flooding has become a greater issue nationally in recent years. The Framework seeks to ensure that new development is planned to avoid increased vulnerability to impacts arising from climate change, including flood risk factors.
12. The FRA proposes retaining a brick wall to the front of the site as a flood barrier and signing up to the EA's floodline, together with various flood resilience measures. Even if an effective flood barrier could be designed (and there are no details to suggest that one could be), these factors would not overcome the fundamental concern that the development would increase the number of households living in a vulnerable area.
13. The FRA fails to demonstrate that the development will be safe for its lifetime, not increase flood risk elsewhere and, where possible, reduce flood risk overall. Despite the benefits of the development to the appellant and his family (which I outline below), there are no wider sustainability benefits to the community that outweigh flood risk. The Exception Test would not therefore be met.
14. On the basis of the above, I conclude that the development would be subject to an unacceptable risk of flooding which would present a danger to future occupiers. This would be contrary to Local Plan policy Strat 1 and the advice in the Framework. This is an overriding concern which would justify dismissing the appeal in its own right. However, I go on to consider the other matters raised by the Council.

Sustainability

15. Local Plan policy Strat 3 sets out the settlement hierarchy for the district which identifies East Stockwith as a Small Rural Settlement. Development is generally directed towards larger settlements where there is better access to services and facilities, in order to reduce the need to travel. Under policy Strat 8, within Small Rural Settlements, no new building will be permitted except those that meet a clearly defined local need or for affordable housing. The 'local need' is defined in the policy. This policy is in line with advice in the Framework which states that in rural areas Councils should plan for housing to meet local needs.
16. The appellant seeks to erect the additional dwelling for his daughter and family to live in. This will assist the family in providing care for their granddaughter while Mr Taylor's daughter is at work. The appellant states that he and his family have lived in the village for several years and I note the support for this proposal from the Parish Council. The Council accept that the proposal would meet the local need criteria set out in policy Strat 8.
17. However, the justification to the policy indicates that, even where local need exists, there must be no alternative options available which would meet that need. The appellant has indicated that other dwellings have been considered but discounted for various reasons. I acknowledge that other dwellings nearby may not provide the same level of convenience as would be provided by the appeal proposal; older dwellings may require more maintenance or they may not provide the specific accommodation that the family would prefer. However, these matters are more to do with the preferences of the appellant and family, rather than being an indicator that there are no alternatives available.

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18. Thus, whilst I do not doubt that the development would fulfil the family's needs, it would not satisfy the requirements of policy Strat 8. Accordingly, I conclude that the appeal site is not an acceptable location for new housing development having regard to both local and national planning policy.

Living Conditions

19. A bedroom window in the proposed dwelling would face onto the existing dwelling at No. 23. However, that dwelling is set further back on its site than the existing property at No. 21 such that the proposed window would face the side wall of No. 23. Whilst there would be a degree of overlooking from this window, there is an existing tall hedge between the two properties which would reduce the potential loss of privacy to No. 23. The retention of this hedge could be ensured by the imposition of a condition if I were minded to allow the appeal. This would not be of such overriding concern in its own right that it would lead me to dismiss the appeal.

Other matters

20. I note that the existing property is suffering from structural defects and I saw the bulge in the rear wall and internal and external cracks. Whilst the design and access statement accompanying the application indicates that extensive repair and rebuilding will be necessary, no evidence has been provided to confirm the available options, extent or cost of the works necessary to remedy these defects. Therefore insufficient evidence has been provided to enable me to conclude that this matter would lend significant weight in favour of the appeal.

Overall conclusion

21. I sympathise with the appellant's desire to provide living accommodation which would help ease their family's childcare arrangements. I also acknowledge the structural problems with the existing house. However, neither of these factors provides sufficient weight to overcome the significant concerns in relation to the flood risk implications of the development. The conflict with the Council's settlement strategy, due to the location of the development, adds further weight against the appeal.
22. For the reasons given above I conclude that the appeal should be dismissed.

Susan Heywood

INSPECTOR