



**Guildhall Gainsborough
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This meeting will be recorded and published on the website

AGENDA

**Planning Committee
Wednesday 29 May 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 25 April 2013, 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
(Summary attached at Appendix A)
Print herewith PL.01 13/14

PAPER A

9. To note the following determination of appeals:

- i) Appeal by Mr Roger Patrick against West Lindsey District Council's refusal to grant outline planning permission for a new dwelling in connection with an agricultural business at Stonybridge Farm, Brigg Road, North Kelsey

Appeal dismissed – see copy letter attached as Appendix Bi

Officer's original recommendation to refuse.

M Gill
Chief Executive
The Guildhall
Gainsborough
20 May 2013

1 - 129621 - Burton

Planning application for replacement dwelling – resubmission – at The Aviary Hall Drive
Burton

RECOMMENDED DECISION: Grant permission subject to conditions

2 - 129564 - Spridlington

Planning application for proposed biomass-crop only-renewable energy facility, associated works and landscaping at Grange Farm Cliff Road Spridlington Market Rasen.

RECOMMENDED DECISION: Grant Planning Permission

3 – 129648 - Ingham

Planning application for the erection of 17no. dwellings consisting of 7no. affordable and 10no. open market properties with access onto Lincoln Road on Land at Lincoln Road Ingham Lincoln

RECOMMENDED DECISION: That the decision to grant permission subject to conditions be delegated to the Director of Regeneration and Planning upon the completion and signing of an agreement under section 106 of the amended Town & Country Planning Act 1990 which secures:-

1. Which homes are affordable and when they are delivered in the context of the delivery of the open-market homes.
2. The criteria for the first and subsequent occupancy of the affordable homes.
3. The mechanisms for ensuring the affordable homes are affordable .

4 - 129816 – Torksey

Planning application for demolition of existing three storey dwelling and erection of a new three storey dwelling at the Elms Torksey.

RECOMMENDED DECISION: Grant planning consent subject to conditions

5 - 129844 – Saxilby

Planning application for erection of a footbridge at Saxilby Railway Station Station Road Saxilby

RECOMMENDED DECISION: Grant planning permission subject to conditions.



Appeal Decision

Hearing held on 13 March 2013

Site visit made on 13 March 2013

by Jean Russell MA MRTPI

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

Decision date: 29 April 2013

Appeal Ref: APP/N2535/A/12/2186890

Stonybridge Farm, Brigg Road, North Kelsey, Market Rasen, Lincs, LN7 6JU

- 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 Roger Patrick against the decision of West Lindsey District Council.
 - The application ref: 128369, dated 29 February 2012, was refused by notice dated 17 August 2012.
 - The development proposed is a new dwelling in connection with an agricultural business.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have spelt 'Stonybridge' as I believe to be correct and not as it is written on the planning application forms or the Council's decision notice.
3. The outline application was made with the matters of layout, scale, appearance, access and landscaping all reserved for future consideration. The proposed dwelling would have some 200m² floorspace and four bedrooms. It would be some 5.5m high to the eaves and 8m high to the ridge. The 'site plan' shows the indicative site layout, access points and width and length of the building.

Main Issues

4. I consider that the main issues are whether the proposed development would comply with national and local planning policies that aim a) to promote sustainable rural development and protect the countryside; and b) to minimise flood risk.

Reasons

Sustainable Rural Development and Countryside Protection

The Site and its Surroundings

5. Stonybridge Farm is a well-established arable holding of some 210 ha or 505 acres. The crops are hay, wheat, potatoes, oilseed rape, spring or malting barley, winter barley and winter beans. The appellant has diversified the farm, so that hay and cereal products are produced for the local equine, pet and smallholder markets and sold direct to customers at the yard gate and via delivery. There are additional gate sales of potatoes. The retail activity contributes significantly to the turnover of the business.
6. The appellant and his son, Richard Patrick (RP), work full-time with help from their wives. The appellant lives in an existing house on the farm but RP resides some ten miles away and it is intended that he would occupy the proposed development.

7. The proposed dwelling would be located within part of a field to the north or side of the existing house. The site is outside of any settlement as designated in the *West Lindsey Local Plan First Review – June 2006* (LP). For planning policy purposes, the proposal is to construct a new house in the open countryside.

Planning Policy

8. The *National Planning Policy Framework* (the Framework) sets out a presumption in favour of sustainable development – economically, socially and environmentally. The Core Planning Principles recognise the intrinsic character and beauty of the countryside and seek to support thriving rural communities within it.
9. Paragraph 55 of the Framework states that, to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. New isolated homes in the countryside should be avoided unless there are special circumstances such as the essential need for a rural worker to live permanently at or near their place of work in the countryside.
10. LP Policy RES10 indicates that agricultural or forestry workers' dwellings will only be permitted in the open countryside where criteria are met. The appellant argues that RES10 is not relevant because the criteria are based on tests set out in Annex A of *Planning Policy Statement 7* (PPS7). PPS7 was replaced by the Framework which does not include any tests for or definition of 'essential need'.
11. Various appeal decisions made since the Framework was published suggest that the PPS7 tests could be a material consideration when determining whether a worker's dwelling would meet an essential need. Even in the Kilham Lane decision cited by the appellant, the Inspector alluded to PPS7 guidance regarding financial assessments – and he did not suggest that it was intrinsically irrelevant. However, it is not necessary for me to consider the applicability of PPS7 to this case. In the other appeals, the tests were not incorporated into the policies of the development plan.¹ I could disregard PPS7 but the proposed dwelling would still fall to be considered against the LP and hence RES10 criteria.
12. The first criterion of RES10 is that a proposed agricultural or forestry dwelling should be 'essential' to the efficient and operational running of the enterprise; this is broadly consistent with the Framework. The appellant has not shown that other criteria, discussed where relevant below, are at odds with any aim or requirement of the Framework – which explicitly provides a framework within which councils can produce their own distinctive local plans. RES10 sets out local planning policy detail as to how a proposal to construct a farm worker's dwelling in this District must be shown to meet an 'essential need'.
13. The appellant objects that RES10 relates only to agricultural and forestry worker's dwellings, and not to 'rural' worker's dwellings in accordance with the Framework. However, the Council's reason for refusal suggests that RES10 should be read with LP Policy STRAT12, which resists development in the open countryside unless it is 'essential to the needs of agriculture...or other land uses which necessarily require a countryside location...' In any event, the appeal concerns a house for a farm worker. I find that RES10 and STRAT12 are relevant to the appeal and sufficiently consistent with the Framework as to carry significant weight.²

Essential Need

14. The appellant has shown that the labour requirement for Stonybridge Farm adds up to around 583 Standard Man Days (SMD) per year – 508 for cropping and 75

¹ In appeal ref: 2171046, the PPS7 tests were referred to in the explanatory text to a local plan policy.

² The Framework, paragraph 215

- for gate sales. This equates to a need for 2.5 full-time equivalent (FTE) workers. The Council does not dispute this assessment; the issue between the parties is whether there is an essential need for one or all of the workers to live on the farm.
15. The arable operations are such that the working day may be from around 07.00 to the early hours of the next day. Crops may need to be sprayed three or four times per week but this can only be done when weather conditions are favourable. Some crops such as milling wheat and malting barley are of high value and sufficiently sensitive as to require particular attention during growth and harvesting seasons. Potatoes need careful management in storage.³ However, none of the produce or equipment requires 24 hour monitoring – and it is the norm for farmers to work long hours. In my view, it would be advantageous for at least one worker to live close enough that they can respond quickly to changing weather or emergencies – but it does not follow that there is an essential need for any residence on the farm.
 16. Turning to the gate sales, the appellant’s business appraisal suggests that there are 4.9 customer visits per day on average – 12.7 on Saturday or Sunday and 1.7 on weekdays. The SMD requirement is based on this number of callers and an allowance for 20 minutes to be spent with each customer. I consider that time estimate to be reasonable, since the goods sold are bulky and purchased in various quantities. The loading of bales or bags is physically demanding.
 17. I heard that customers visit or require deliveries from around 07.30 hours, and often at evenings or weekends. However, only 10% of customers will call after 17.00 hours. They have visited as late as 22.00 hours but not, seemingly, on a frequent basis. I also consider that while some customers will call without notice, they would be unlikely to do so when seeking to buy goods in volume, especially at late hours.⁴ They will be aware that the yard is within a working farm; there is no shop as such. Deliveries would also be planned. I accept that the retail operation involves unsocial hours – but it does not add to the length of the existing working day or create a clear requirement for a worker to stay in the yard at most times.
 18. RP and his wife plan to diversify the business further by setting up livestock and poultry units. It may be that this enterprise would create a need for more workers, with one or more living on the farm. However, the scheme has not been worked up – I have seen no business plan or planning application.⁵ I heard that, without the proposed dwelling, the new units are ‘never going to happen’ but there is no evidence of this – or even that the scheme would be progressed if the appeal was allowed. RES10 requires that the unit and agricultural activity related to a worker’s dwelling is established, profitable, financially sound and likely to remain so. The existing enterprise at Stonybridge Farm is viable but the same cannot be anticipated of any new venture.
 19. I attach little weight to the argument that the development is required for security reasons. There have been thefts from the farmyard, which faces Brigg Road and is only enclosed by a low wall and gates. However, the appellant has not assessed the potential to install security measures such as CCTV or alarms. The proposed dwelling would be further from the farmyard and buildings than the existing house. Overall, taking the size of the farm, types of crop and the gate sales, I accept that the efficient running of the business relates to staff being available at short notice. However, there is insufficient evidence as to whether there is an essential need for either one or two workers to live on the farm.

³ Stonybridge Farm participates in a Crop Assurance Scheme.

⁴ I heard that sales range generally from 1-300 bales but customers have only called ‘on spec’ for 10-15 bales.

⁵ The appellant recently made a planning application for a hay store but he stated that this would not add to the existing labour requirement on the farm. The application was not valid at the time of the hearing.

20. Moreover, RES10 expects that agricultural workers dwellings are only constructed where no other housing accommodation is already available locally, whether occupied or not, to meet the need. This is consistent with the Framework which relates 'essential need' to living 'at or near' to a place of work. The existing house at Stonybridge Farm is not subject to an agricultural occupancy condition, so it could be sold off at any time. However, I heard that this would not occur while the holding is owned by the family. In any event, the house is surrounded by farmland on three sides; it is within sight and sound of the gate, yard and main buildings. Even if there is an essential need for one worker to live on the farm, the existing house would meet that need for the purposes of RES10 and the Framework.
21. While the appellant lives in the farmhouse, it could not be occupied by RP – who is responsible for spraying and some heavy duties. I do not dispute the importance, if only for viability reasons, of keeping work within the family on this medium-sized farm. Nevertheless, the proposal is for a permanent dwelling and the personnel may change. I have found no demonstrable need for two workers to be on hand at most times. Even if that finding is wrong, there is an existing house on the holding and thus RP could simply live nearby – such that he could respond at short notice to changing weather or calls to deal with sales or emergencies.
22. The farm is near to North Kelsey, a village that includes a range of residential properties. I saw at least one house for sale here. The Council found in August 2012 that seven houses with three or four bedrooms were for sale in the village, within 0.9 and 1.2 miles of the farm. Six houses were for sale in January 2013. The appellant found two properties for sale between October 2012 and January 2013 within just 0.5 miles of the Stonybridge Farm postcode.
23. The appellant claims that the dwellings for sale were not sufficiently close to be appropriate for the needs of the business. This concern is not justified in my view. The drive from North Kelsey to the farm is short and straightforward; a worker could live in the settlement and be on hand at short notice. The appellant also objects that business activities could not likely be carried out from any house in the village – but the arable and retail operations are all carried out on the farm itself. I find that accommodation is likely available locally for a second worker to live at or near to Stonybridge.
24. The Council also objects that the proposed development would be over-generous in scale. RES10 requires that any proposed agricultural dwelling is no larger in size than is justified by the needs of the enterprise. There are no size standards for dwellings in the Framework or LP and I accept that any farm worker may require a family home. However, I see no reason to dispute the Council's broad point that four-bedroom accommodation could be provided in a smaller building. I also note that the existing house is relatively large. In my view, the appellant has not shown how the needs of the farm could justify two sizeable dwellings.

Personal Circumstances

25. The appellant suggests that his family's circumstances would justify the size of the proposed dwelling. A smaller house was not considered because, at the time of the hearing, RP and his wife had one child and another on the way. Meanwhile, the appellant and his wife sometimes have grandchildren to stay. This evidence is not sufficient to persuade me that a dwelling of the scale proposed is required to ensure acceptable living conditions for the extended family. I cannot base this decision upon speculation that RP's housing needs may change in the future.
26. The appellant's supporters suggest that RP's family life is harmed by his existing ten mile commute. In my view, a move to North Kelsey would reduce his journey to work to the extent that he could potentially take breaks at home and have more

time there generally. The village is also close enough that RP's wife and child or children could help him on the farm. RP's long working hours may still affect his family life but that would be the case even if the appeal was allowed.

27. The Council has advised that the appellant could apply for planning permission for an annexe to the existing farmhouse under LP Policy RES13. I cannot speculate as to whether any such application would succeed – but that the Council is willing to discuss it adds weight to my view that the family has other options.

Sustainable Development

28. In the absence of an essential need for the proposed dwelling, the Council objects that it would represent an unsustainable form of development in the open countryside. Brigg Road does not form part of a bus route. Future occupiers of the dwelling would rely upon the private car for their day-to-day journeys.
29. If the dwelling was occupied by RP, he or she would walk to work. However, he and members of his family would likely need to drive to shops and services in North Kelsey and beyond. An agricultural occupancy condition could not be imposed if the dwelling would not meet an essential need, and so the house could be sold. On the other hand, if RP moved to an existing property in North Kelsey, he would likely need to drive to work – but any village resident may be in that position. Since the proposal is to construct a new house in the open countryside, it could be expected to generate increased travel movements within the area overall. Moreover, North Kelsey is served by public transport which could potentially be used for some non-work journeys if the family lived in this settlement.
30. Paragraph 28 of the Framework supports the sustainable growth and expansion of rural business; and the development and diversification of agriculture. The appellant and Councillor Strange have generally emphasised the contribution of this family farm to the local economy. The appellant also suggests that farming has changed in recent years – in a way not recognised by RES10 – in that the growth in industrial-scale agriculture has caused small and medium-sized holdings to decline or rely on diversification. I do not dispute these points but they are of limited relevance when there is insufficient evidence that the continued viability or growth of Stonybridge Farm is dependent on the proposed development.
31. Paragraph 28 also promotes the retention and development of local services and community facilities in villages. I have had regard to the letters in support of the appellant written by his customers. Again, however, the proposed dwelling is not necessary for the appellant to provide or support local services. There is adequate existing accommodation at or near to the farm. Cllr Strange and others suggest that the community in North Kelsey would benefit if a young family moves into the area, but the same advantages would accrue if RP lived in the village itself.
32. Thus, future occupiers of the proposed development would likely rely upon the car and it would provide no overriding sustainability benefits in respect of the economy or community. Overall, it would fail to promote sustainable development.

Countryside Protection

33. The Council also refused permission on the basis that the proposed development would appear overly intrusive. RES10 requires that an agricultural worker's dwelling in the open countryside would not cause significant environmental or landscape impact. The supporting text indicates that the objectives of the policy relate in part to the protection of the landscape quality of the countryside from the harmful intrusion of unnecessary sporadic development.

34. Since this is an outline application, I would not refuse permission on grounds of visual harm alone. However, although the proposed dwelling would be close to that existing, it would be sited in an open field and it would serve to extend the existing cluster of built development. It would not be sited within the farmstead or other group of buildings on the holding as required by RES10.
35. Cllr Strange suggests that the proposed dwelling could be screened, but this argument could be repeated too often. Landscaping can rarely justify permanent built development which would encroach upon and reduce the open character of the countryside. In any event, the proposed house would face Brigg Road and be up to 8m high. The site plan indicates that the roadside hedge would be breached to form two new access points. The proposed dwelling would likely be seen by drivers passing in both directions – and by farm gate customers.
36. Thus, the proposed development would be liable to harm the intrinsic character of the countryside that the Framework and LP seek to protect. Whether the harm would be unacceptable is a moot point when the dwelling has not been justified as meeting an essential or personal need.

Conclusion

37. I conclude that the appellant has not shown that there is an essential need for a rural worker to live permanently at or near this place of work. Alternative accommodation is likely available in the local area and the proposed development may be larger than justified by the needs of the enterprise. Given the lack of essential need, the dwelling would fail to promote sustainable development or protect the character of the countryside. It would not be justified by personal or other special circumstances and so it would conflict with the Framework and LP Policies STRAT12 and RES10.
38. In reaching this conclusion, I have had further regard to the Kilham Lane appeal. That case also related to an arable farm, which was smaller than Stonybridge but used for growing similar crops. The Inspector found that a dwelling was required close to the grain/equipment store so that the farm worker could monitor the produce and equipment – and ensure security. I have not seen full details of the evidence before my colleague and it does not follow from his findings that there is an essential need either for one or two workers to live at Stonybridge Farm.
39. Moreover, the Kilham Lane appellant had no alternative accommodation; his lease was about to expire and other sites for his proposed dwelling were ruled out on seemingly uncontested grounds. His proposed house was to be larger than this before me but smaller than that currently occupied. Given the differences between the cases, the Kilham Lane appeal does not set a precedent for my decision.

Flood Risk

40. The Environment Agency's (EA) Flood Zone (FZ) Maps show the appeal site as falling within Flood Zone 3 (FZ3). The *Technical Guidance to the National Planning Policy Framework* (TG) defines FZ3a as land where there is a 'high probability' of flooding: >1% annual probability of river flooding in any year.
41. The Framework seeks to direct development away from areas at highest risk of flooding through application of the Sequential Test (ST). Where there are no reasonably available sites in FZ1, reasonably available sites should be considered in FZ2, and if there are no suitably available sites in FZ1 or FZ2, the suitability of sites in FZ3 may be considered, with regard to the vulnerability of the development and the Exception Test.

42. Following correspondence with the EA in January 2012, the appellant claimed that the FZ Map is based on out-of-date information. The EA suggested in December 2012 that the site is still in FZ3. The appellant subsequently submitted a revised Flood Risk Assessment (FRA) with a topographical survey – and this shows that the land level on the appeal site is above the maximum flood level (in a 1 in 1000 or 0.1% event) from the North Kelsey and Grasby Beck. The EA accepted the survey but only conceded that the land is above the 1% annual probability flood level.
43. The EA's comments indicate that, to all intents and purposes, there is not a 'high probability of flooding' on the site. However, they leave an unanswered question as to whether the site should be considered as in FZ1 or FZ2. If the latter, there would still be a policy requirement to apply the ST – and there is likely to be available land within FZ1. The appellant indicates that the proposed dwelling could not be sited to the south of the existing farm buildings because machinery noise would prejudice living conditions. I have seen no assessment to confirm this. In any event, North Kelsey is not within a flood risk area so far as I am aware.
44. Nevertheless, the EA has withdrawn its objection to the appeal. It seems that flood risk from all likely sources could be addressed by imposing conditions to control surface water drainage, the ground levels of the site and the finished floor levels of the proposed dwelling. I accept that the development would likely be flood resistant without increasing the risk of flooding elsewhere. It would not conflict with the aim of Framework to avoid flood risk to people and property – or with LP Policy STRAT1, which requires development to avoid utilising land at flood risk. However, this finding does not alter my conclusion on the first main issue.

Other Matters

45. The appellant objects that the Council made its decision under delegated powers, despite requests from Cllr Strange for referral to committee. The appellant also objects that he was not given details prior to the appeal of the EA's objection. I cannot comment on the way in which the Council handled the application.
46. Cllr Strange has suggested that, if RP moves to North Kelsey, this would deprive a local family of opportunity to buy a home and stay in the area. In my view, the Patricks are themselves a local family – and if RP moved, his existing property could be made available to others. Since it is some ten miles from the farm, it could not be realistically described as out of the local market. I heard that there is no shortfall of housing in the District generally. Cllr Strange also objected that other housing developments are being permitted in the open countryside but I do not know details and have determined this appeal on its merits.

Conclusion

47. Notwithstanding my conclusion on flood risk, the lack of essential need for the proposed development is a compelling objection. For this reason and with regard to all the other matters raised, I conclude that the appeal should be dismissed.

Jean Russell

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Richard Alderson	The appellant's agent
Mr Roger Patrick	The appellant
Mr Richard Patrick	The appellant's son and intended occupier of the proposed dwelling
Cllr Lewis Strange	The appellant's ward councillor (also appearing on behalf of the Parish Council and local residents)
Mr Tom Robinson	The appellant's agent

FOR THE LOCAL PLANNING AUTHORITY:

Mr George Backovic	Senior Area Development Officer
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DOCUMENTS

- 1 Planning appeal ref: APP/F4410/A/12/2173826, dated 20 September 2012, pertaining to Land at Kilham Lane, Branton, Doncaster
- 2 Policy RES13 of the West Lindsey Local Plan First Review – June 2006
- 3 The appellant's closing submissions