

Guildhall Gainsborough
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AGENDA

This meeting will be recorded and the video archive published on our website

Planning Committee
Wednesday, 21st August, 2019 at 6.30 pm
Council Chamber - The Guildhall

Members:

- Councillor Ian Fleetwood (Chairman)
- Councillor Robert Waller (Vice-Chairman)
- Councillor Owen Bierley
- Councillor Matthew Boles
- Councillor David Cotton
- Councillor Michael Devine
- Councillor Cherie Hill
- Councillor Paul Howitt-Cowan
- Councillor Mrs Cordelia McCartney
- Councillor Giles McNeill
- Councillor Mrs Jessie Milne
- Councillor Keith Panter
- Councillor Roger Patterson
- Councillor Mrs Judy Rainsforth
- Councillor Mrs Angela White

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. **To Approve the Minutes of the Previous Meeting** (PAGES 3 - 7)
 - i) **Meeting of the Planning Committee held on 26 June 2019, previously circulated.**
4. **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.

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

Large Clear Print: Braille: Audio: Native Language

5. **Update on Government/Local Changes in Planning Policy** (VERBAL REPORT)

Note – the status of Neighbourhood Plans in the District may be found via this link

<https://www.west-lindsey.gov.uk/my-services/planning-and-building/neighbourhood-planning/>

6. **Planning Applications for Determination**

i) 139558 - Land At South Street North Kelsey (PAGES 8 - 19)

7. **Determination of Appeals** (PAGES 20 - 32)

Ian Knowles
Head of Paid Service
The Guildhall
Gainsborough

Tuesday, 13 August 2019

WEST LINDSEY DISTRICT COUNCIL

MINUTES of the Meeting of the Planning Committee held in the Council Chamber - The Guildhall on 26 June 2019 commencing at 6.30 pm.

Present: Councillor Ian Fleetwood (Chairman)
Councillor Robert Waller (Vice-Chairman)

Councillor Owen Bierley
Councillor Matthew Boles
Councillor David Cotton
Councillor Michael Devine
Councillor Cherie Hill
Councillor Paul Howitt-Cowan
Councillor Giles McNeill
Councillor Mrs Jessie Milne
Councillor Keith Panter
Councillor Mrs Judy Rainsforth
Councillor Mrs Angela White

In Attendance:
Russell Clarkson Planning Manager (Development Management)
Joanne Sizer Area Development Officer
Martha Rees Legal Advisor
Ele Snow Democratic and Civic Officer

Apologies: Councillor Mrs Cordelia McCartney
Councillor Roger Patterson

Also In Attendance: Two members of the public

10 PUBLIC PARTICIPATION PERIOD

There was no public participation at this stage of the meeting.

11 TO APPROVE THE MINUTES OF THE PREVIOUS MEETING

Meeting of the Planning Committee held on 29 May 2019.

RESOLVED that the Minutes of the meeting of the Planning Committee held on 29 May 2019 be confirmed and signed as a correct record.

12 DECLARATIONS OF INTEREST

Cllr David Cotton declared that he was Ward Member for the application detailed in agenda item 6a (139024) and would step down as a Member of Committee for the duration of that item.

Cllr David Cotton also declared for all Committee Members that as the applicant in agenda item 6b (139436) was a Member of Council, he was known to all Committee Members.

Cllr M Boles declared that he was Ward Member for the application detailed in agenda item 6c (139491) but he had held no conversations regarding the application and would remain as Committee Member.

13 UPDATE ON GOVERNMENT/LOCAL CHANGES IN PLANNING POLICY

The Committee were advised by the Planning Manager that consultation in relation to the review of the Central Lincolnshire Local Plan Issues and Options paper had commenced on 6 June and ran to 18 July 2019. The consultation contained a number of proposals for how the plan might change, details of suggested new policies as well as detailing those policies currently identified as requiring no change. He explained views were being sought from residents, stakeholders and Councillors on these proposals. A formal consultation response on behalf of West Lindsey District Council would be prepared and agreed by the Prosperous Communities Committee, however Councillors were encouraged to submit their own responses to the consultation and an email had been circulated by the Planning Policy Manager setting out relevant details and links to the consultation. He added that following the close of this round of consultation, work would continue on the collation of the responses which would be used to help inform revisions to policy. This would again be consulted on in early 2020, with further opportunity for councillor and resident comment.

With regard to Neighbourhood Plans, the Planning Manager explained that the referendum for Willoughton NP had been successful and was proposed for adoption by Full Council on Monday 1 July. The examination for Glentworth NP had been completed, with the Examiner's report expected in due course and Greetwell Parish Council's application to prepare a Neighbourhood Plan had been approved on 21 June. Fiskerton Parish Council had withdrawn its Neighbourhood Plan.

14 PLANNING APPLICATIONS FOR DETERMINATION

RESOLVED that the applications detailed in agenda item 6 be dealt with as follows:

15 139024 - THE WATERHOUSE, MAIN STREET, BURTON

The Chairman introduced planning application number 139024, a retrospective application to change the use of a residential swimming pool to a private teaching pool at The Waterhouse, Main Street, Burton, Lincoln. The Committee were advised there were no updates to the report and the Chairman confirmed there were three speakers to the application and invited the first speaker to address the Committee.

The first speaker introduced himself as Mr Andrew Allison, agent for the applicant. He reiterated that this was a retrospective application for the use of the residential swimming pool to be changed to a private teaching pool, providing lessons for disabled children and children with learning difficulties. He explained how the lessons worked, with a maximum of four children in one lesson and parents accompanied them at all times. He explained that there had been no issues on their two years of operating and lessons only ran for four hours a day and solely on weekdays. He highlighted that this had been reflected accurately in the Officer's report and they were accepting of all the conditions recommended by the Officer. Mr Allison noted that Councillor Cotton as Ward Member had objected to the access and parking arrangements however it was clarified that access was off Middle Street, not off the hill access on Main Street, and the Highways Agency had not objected. The suggested widening of the access by 900mm would provide the access to the site that the Highways Agency had agreed and the applicant had confirmed this would have no impact on the tree frontage. Mr Allison reiterated the importance of the swimming lessons for the children who swam there and explained that they often could not cope with public leisure facilities. He stated that the loss of the facility would be detrimental to the health and wellbeing of the children affected.

The second speaker introduced himself as Mr Michael Hayes-Cowley, the applicant. He explained that he was not running the change of use of the pool as a business venture. He stated that his motivation to become involved in providing swimming lessons for disabled children was his personal involvement with a child who had had many health issues and the way he had seen swimming to have been her main release. He stated that he wanted to be able to use his private pool to be able to give that opportunity to others who otherwise would not be able to access such facilities. He thanked the Committee for their time.

The Chairman then invited Councillor David Cotton, Ward Member for Saxilby, to address the Committee.

Cllr Cotton referenced the access to the site and accepted it was off Middle Street, although he raised some concerns regarding the speed of traffic along the road. He noted that the Parish Council had raised concerns and the change of use had only come to light because of complaints made by residents. He asked of the Committee to consider proposing a site visit in order to see the arrangements first hand. Cllr Cotton commended the applicant for their intentions but suggested that there was no way of knowing how the venture had been run over the previous two years as it had been running without the knowledge of the relevant authorities.

Note: Cllr D. Cotton withdrew from the Chamber at 6:44pm.

With no further update from the Officers, the Chairman invited comment from Committee Members. A Member of Committee felt the Officer had covered all eventualities with the proposed conditions and that it was an acceptable change of use. She moved the Officer recommendation.

Another Committee Member commented that it would be useful to see how the business worked and whether it was suitable and therefore proposed a site visit.

There was further support from Members of Committee and the proposal to move the Officer

recommendation was seconded.

Following discussion regarding concerns about the permission to change use setting a precedent in the area and also whether the property could subsequently be sold for other business use, it was proposed to amend the recommendation in order to ensure the permission was allocated to the current applicant and would cease if he sold the property. The Legal Advisor noted that the applicant was not the company running the lessons and so the link to an individual would need to be precise. It was therefore proposed that the amendment be delegated to Officers to ensure it was accurate.

With the agreement of the original proposer and seconder, the amended proposal was put to the vote and it was unanimously **AGREED** that permission be **GRANTED** subject to conditions and that it be delegated back to Officers to assign the permission to the relevant party, with the expectation that a change of applicant would return before the Committee.

Note: Cllr D. Cotton returned to the Chamber at 6:53pm

16 139436 - 4 CHURCHILL WAY, LEA

The Chairman introduced application number 139436, to vary condition 3 of planning permission 137810 granted 26 July 2018 - materials condition. The Planning Manager advised Members that since publication of the papers, Lea Parish Council had responded to say they had no comment to make. The Chairman reiterated the declaration made at the start of the meeting regarding the application and confirmed there were no registered speakers.

A Member of the Committee enquired whether the application would have been dealt with under delegated powers, had the applicant not been an Elected Member of the Council and it was confirmed this was the case. The Officer recommendation was therefore moved, seconded and voted upon. It was unanimously **AGREED** that the application be delegated back to Officers, to determine the application in accordance with the given resolution, having considered any further representations received ahead of the expiry of the publicity period (8 July 2019). Should any new material considerations arise within the intervening period that had not previously been considered, then the application may be referred back to the Committee for further consideration.

17 139491 - 11 MAPLE CLOSE, MORTON

The Chairman introduced application number 139491, for a two storey side extension. The Planning Manager advised Members that since publication of the papers, Lincolnshire County Council, as the Highways Agency and Lead Flood Authority, had confirmed the application was acceptable and they did not wish to object. The Chairman confirmed there were no registered speakers.

A Member of the Committee enquired whether the application would have been dealt with under delegated powers, had the applicant not been an Officer of the Council and it was confirmed this was the case. The Officer recommendation was therefore moved, seconded and voted upon. It was unanimously **AGREED** that the application be delegated back to

Officers, to determine the application in accordance with the given resolution, having considered any further representations received ahead of the expiry of the publicity period (8 July 2019). Should any new material considerations arise within the intervening period that had not previously been considered, then the application may be referred back to the Committee for further consideration.

18 DETERMINATION OF APPEALS

There were no determinations of appeals to be noted however Members were advised that there were several determinations expected prior to the next meeting.

The meeting concluded at 6.56 pm.

Chairman



LOCATION PLAN
Scale - 1:1250

Officers Report

Planning Application No: 139558

PROPOSAL: Planning application for 1 no. dwelling with detached garage

LOCATION: Land to north of South Street North Kelsey Market Rasen
LN7 6ET

WARD: Kelsey

WARD MEMBER(S): Cllr C L Strange

APPLICANT NAME: Mr & Mrs Waghorn

TARGET DECISION DATE: 01/08/2019 (Extension of time agreed until
23rd August)

DEVELOPMENT TYPE: Minor - Dwellings

CASE OFFICER: Danielle Peck

RECOMMENDED DECISION: Refuse planning permission

This application has been referred to the Planning Committee following the request of the Ward Member and following third party representations in relation as to whether the application site would amount to being an “appropriate location”.

Description: The application site is a piece of land located on the southern side of South Street within the settlement of North Kelsey (a ‘medium village’ under policy LP2 of the Local Plan). The site is accessed via an existing lane off South Street. The highway runs to the north of the site with residential properties beyond and there is agricultural land to the south and west. The site is bordered by trees and hedging along all boundaries. The site levels vary throughout the site and parts of it lie lower than the highway.

The application seeks permission to erect one dwelling and a detached triple garage.

Relevant history:

138649- Planning application for 1 no. dwelling with detached garage. Refused 16 January 2019.

136222- Pre application enquiry to erect 1 no. dwelling- Planning permission unlikely to be forthcoming. Advice given May 2017.

135103- Pre application enquiry to erect 1 no. dwelling. Planning permission unlikely to be forthcoming.. Advice given November 2016.

Representations:

Cllr C L Strange (Ward Member): Request that the application is determined by the planning committee and will request a site visit as the site is unusual on being on a brown field site. Approximately 750 metres from the site lies the

proposed development of seven houses on Carr Lane, a further development on the northern extremity has also been allowed. The village has no neighbourhood plan, it is classed as a medium size community and could attract some 45 new houses during the next 20 years. The proposal gives the chance for the applicant and our excellent planning department the chance to erect a really well designed property that would add to the character of the village.

North Kelsey Parish Council: A very positive development.

Local residents:

Letters of support have been received from the following properties:

Ashleigh, South Street
The Homestead x2, South Street
Fir Tree Cottage, South Street
Donna Nook, South Street
Clarendon, South Street
Moor Green Cottage,
School House, South Street
Fourways, Church Street, Westville, Middle Street,
Eclipse, Maidenwell Lane,
1 Pelham View, North Kelsey
Orchard House, Grange Lane

Summarised as follows:

- Nice to see the old quarry neat and tidy instead of a dumping ground;
- Good infill site for the development of a dwelling rather than putting a mini estate area on what looks like the countryside;
- This small scale development would not impact the area negatively;
- See no reason why planning permission should not be granted and welcome the proposal;
- The area has been transformed into a nature reserve;
- It will improve the look of the land;
- The dwelling will fit in well with the surrounding area;

Petition in support has been received from 20 addresses within North Kelsey- (refers to 138649-previous application)-

- Would have no objection to the planning and development of 'The Old Quarry', located on South Street, North Kelsey

Kemnay, South Street-(In summary)- Objection

- Object in the strongest possible terms to this proposed development as the site is an inappropriate location for development and contrary to local policies;
- The site has already been the subject to a previously refused application and there has been no significant change;

- The site is clearly not reflective or in line with the villages built form and it would be a clear anomaly laying outside of the development boundary.
- The CLLP has now been formally adopted and no longer has a defined settlement boundary, the site is quite clearly located a distance from the old local plan (2006) settlement boundary and therefore will not retain the core shape and form of North Kelsey;
- The revised National Planning Policy Framework of 19 February 2019 clearly states that 'Previously developed land' or 'brownfield land' "excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures."
- The proposed site evidently falls lower down the list as a green field site and consequently should be supported by a sequential test;
- The proposed new access lies next to our property, the volume of traffic will severely affect our residential amenity;
- In summary, this application should be refused as to protect the countryside from unnecessary village 'sprawl' development, protect our residential amenity and ensuring that a co-ordinated and consistent approach for refusing applications which are unacceptable in planning terms is upheld.

Kanjedza, South Street-

- Concerned that the application will set a precedence for building outside of the village limit, there are a number of applications approved and we would not like to see it further expanded;
- The track to the site is very small for lorries to turn around;
- Concerns that the applicant is going to site a storage container and turn it into a builder's yard.

LCC Highways/Lead Local Flood Authority: No objections. Having given due regard to the appropriate local and national planning policy guidance (in particular the National Planning Policy Framework), Lincolnshire County Council (as Highway Authority and Lead Local Flood Authority) has concluded that the proposed development is acceptable and accordingly, does not wish to object to this planning application.

Archaeology: No representations received.

[Comments from the previous application 138649: The development is located within the historic core of North Kelsey but previous quarrying on the site is likely to have removed any surviving medieval remains. Therefore no archaeological input is required.]

Ancholme Internal Drainage Board: The application lies within the IDB extended district and indicates that, the application will increase the impermeable area to the site and will therefore need to ensure that any existing or proposed surface water system has the capacity to accommodate any increase in surface water discharge from the site.

Relevant Planning Policies:

Central Lincolnshire Local Plan 2012-2036

Following adoption the CLLP forms part of the statutory development plan. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The policies considered most relevant are as follows:

LP1:A Presumption in Favour of Sustainable Development

LP2:The Spatial Strategy and Settlement Hierarchy

LP3:Level and Distribution of Growth

LP4:Growth in Villages

LP10:Meeting Accommodation Needs

LP17:Landscape, Townscape and Views

LP21:Biodiversity and Geodiversity

LP26:Design and Amenity

LP55:Development in the Open Countryside

<https://www.west-lindsey.gov.uk/my-services/planning-andbuilding/planningpolicy/central-lincolnshire-local-plan>

Neighbourhood Plan

There is currently no neighbourhood plan in preparation, within North Kelsey Parish.

National Policy

National Planning Policy Framework

<https://www.gov.uk/government/publications/national-planningpolicy-framework—2>

National Planning Practice Guidance

<https://www.gov.uk/government/collections/planning-practiceguidance>

Main issues

- Principle
- Residential Amenity
- Visual Impact and Design
- Archaeology
- Highways and Access
- Drainage
- Ecology

Assessment:

Principle

Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.

The application site is located on the edge of the settlement of North Kelsey. North Kelsey is classed as a Medium village in policy LP2 of the Central Lincolnshire Local Plan. The policy LP2 states that proposals in North Kelsey will:

'Unless otherwise promoted via a neighbourhood plan or through the demonstration of clear community support, the following applies in these settlements:

- *they will accommodate a limited amount of development in order to support their function and/or sustainability.*
- *no sites are allocated in this plan for development, except for Hemswell Cliff and Lea.*
- *Typically, and only in appropriate locations, development proposals will be on sites of up to 9 dwellings or 0.25 hectares for employment uses. However in exceptional circumstances proposals may come forward at a larger scale on sites of up to 25 dwellings or 0.5 hectares per site for employment uses where proposals can be justified by local circumstances.'*

Local policy LP4 goes on to say that North Kelsey has a growth level of 10%. An updated table of remaining growth for housing in medium and small villages has been completed (30 July 2019) by the Local Planning Authority to sit alongside the CLLP. This confirms that North Kelsey has 431 dwellings which equates to a remaining growth of 43 dwellings. This figure is then reduced by 31 dwellings approved (see planning history column) since 1st April 2012 in North Kelsey. Therefore North Kelsey has a remaining growth of 12 dwellings.

Appropriate Location

Local policy LP2 states that an appropriate location *'means a location which does not conflict, when taken as a whole, with national policy or policies in this Local Plan (such as, but not exclusively, Policy LP26. In addition, to qualify as an 'appropriate location', the site, if developed, would:*

- *Retain the core shape and form of the settlement;*
- *Not significantly harm the settlements character and appearance; and*
- *Not significantly harm the character and appearance of the surrounding countryside or the rural setting of the settlement.*

**** throughout this policy and Policy LP4 the term 'developed footprint' of a settlement is defined as the continuous built form of the settlement and excludes:*

- *a. individual buildings or groups of dispersed buildings which are clearly detached from the continuous built up area of the settlement;*

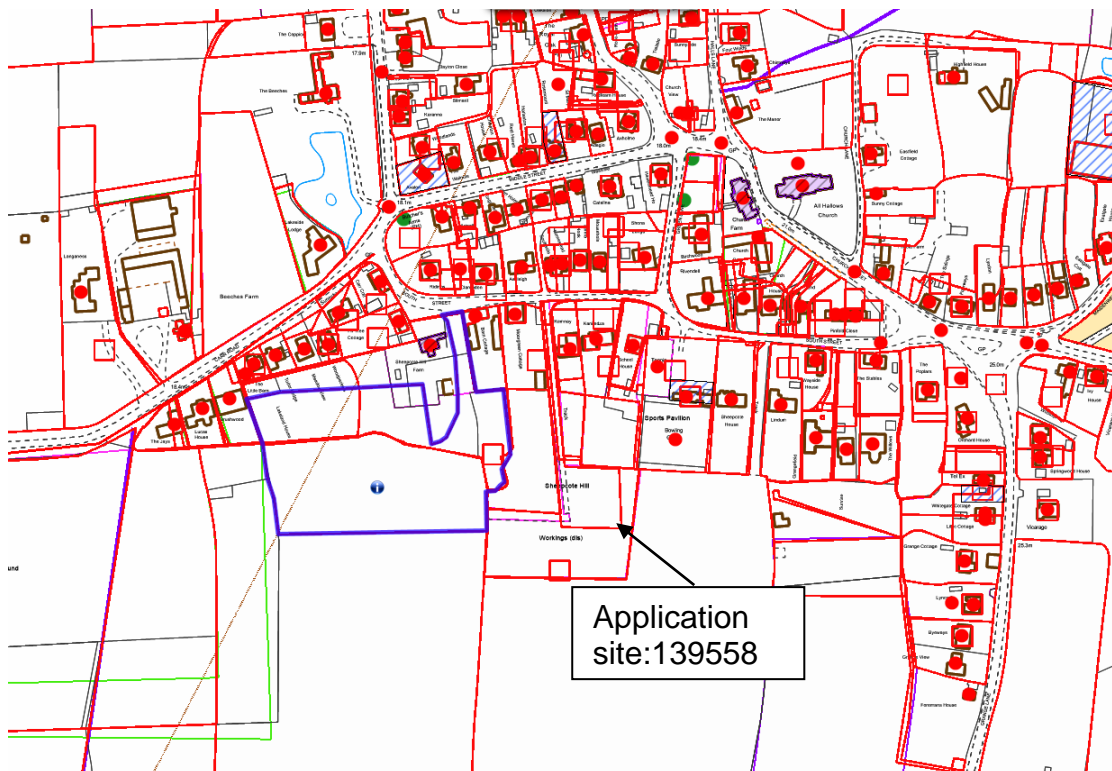
- *b. gardens, paddocks and other undeveloped land within the curtilage of buildings on the edge of the settlement where land relates more to the surrounding countryside than to the built up area of the settlement;*
- *c. agricultural buildings and associated land on the edge of the settlement;*
and
- *d. outdoor sports and recreation*

The key wording in this policy is 'developed footprint',

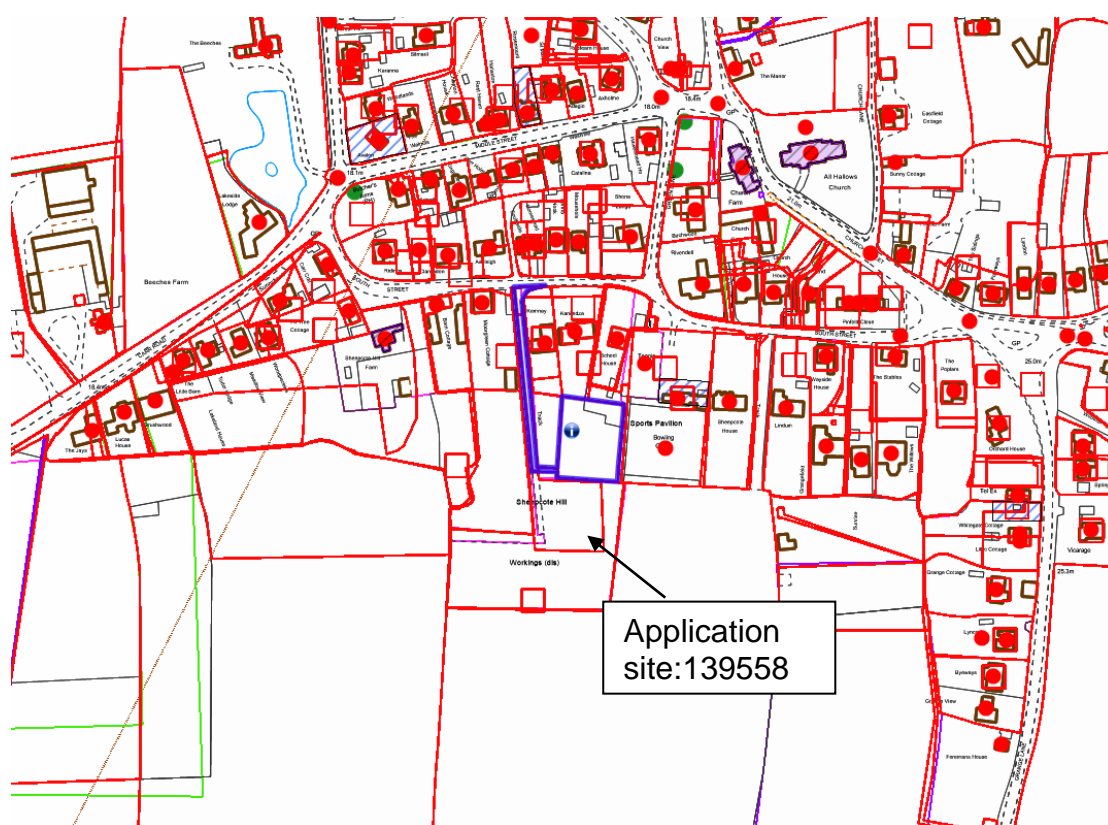
To the east of the site (approximately 130metres away) it is acknowledged that there is are some existing examples of back land development along South Street however it is considered that these dwellings do not set a precedence to allow additional development of this type.

In relation to setting a precedent for further development it is a material consideration in the assessment of this application to take into account two other sites with a history of refused applications for housing within the vicinity of the application site.

Planning application reference 139029 an outline planning application for nine dwellings- all matters reserved was refused 10 May 2019 under the Central Lincolnshire Local Plan, the first reason for refusal was *'The proposed development is not considered to be within an appropriate location as defined within policy LP2 as it will not retain the core shape and form of the settlement and will extend the built footprint of North Kelsey into the open countryside'*. This site (139029) is outlined in blue below. An appeal has now been lodged with the Planning Inspectorate against this refusal of permission (139029), the decision for this application (139558) will become a material consideration for the Inspector when determining the appeal.



Planning application reference 125454 was an outline planning application for four dwellings which was refused 20th May 2010, the first reason for refusal was *'the site is outside the built up area of the village where permission for housing development is granted only where it requires a countryside location and is necessary to meet a specific need'* It is noted that this application was refused under the old West Lindsey Local Plan 2006. This application (125454) was then subject to an appeal to the Planning Inspectorate which was subsequently dismissed, within the inspectors report it stated *'Housing development here would therefore be incongruously located and would not respect the existing pattern and form of the village but would encroach on the open countryside and introduce domestic activity and traffic noise into a currently tranquil area'*. Although this application was determined under previous planning policies it is considered that the principle of the developed footprint of North Kelsey and the importance of retaining this is relevant to the determination of whether this site is an "appropriate location" under the provisions of policies contained within the Central Lincolnshire Local Plan (LP2, LP4).



The application site is located on the edge of the settlement and would not retain the core shape and form of the settlement, it is considered to be detached visually and physically from the built form of the settlement. The site extends out into the open countryside and would therefore not be considered

to be an 'appropriate location' as defined in Policy LP2. The application site therefore falls within open countryside, development is restricted for sites within the countryside under policy LP2 to:

- *That which is demonstrably essential to the effective operation of agriculture, horticulture, forestry, outdoor recreation, transport or utility services;*
- *Renewable energy generation*
- *Proposals falling under policy LP55; and*
- *To minerals or waste development in accordance with separate Minerals and Waste Local Development Documents.*

The application seeks permission for a single dwelling, and there is no indication within the evidence provided within the Planning Statement that the proposed dwelling would fall within any of the specified categories of development that would be appropriate in this location.

Further to this, paragraph 78 and 79 of the National Planning Policy Framework seeks to promote sustainable development in rural areas by locating housing where it will enhance or maintain the vitality of rural communities. Planning policy at local (Policy LP55) and national level (paragraph 79 and paragraph 170 of the NPPF) recognise the intrinsic character and beauty of the countryside and seeks to prevent the establishment of isolated dwellings in the countryside except where the nature and demands of the work connected make it essential for one or more persons engaged in the enterprise to live at, or very close to, the site of their work.

The proposed dwelling would not, therefore, result in a pattern of development which would fall within any of the specified categories of development that would be appropriate in this location. In addition, a single dwelling would make a limited contribution of the vitality of this rural community.

Residential Amenity

The site is large and is set away from other neighbouring properties with the Nearest being to the north approximately 80 metres away. It is noted that the access track is adjacent to 'Kemnay' and there will be some noise from vehicles using the access however this impact is not considered to be harmful enough to warrant a refusal of the application, in view of the amount of traffic likely to be generated. It is therefore considered that the proposal would not result in any significant impact to the residential amenity of nearby properties.

Visual Impact and Design

The proposal is a two storey dwelling of a moderate size with a triple garage. The total height to the ridge of the dwelling is 8 metres and the detached dwelling is 5 metres to the ridge. It is considered that given the considerable amount of screening surrounding the site and the topography it would not be likely to significantly harm the character and appearance of the settlement or the surrounding countryside. Materials are noted on the application form and drawing no. 18/124/0004 to be a white render and timber cladding for the external walls of the dwelling and the garage, with a grey roof tile and grey UPVC windows. Given the positioning of the site and it being set back from

the main street scene and that there are a variety of materials used within the area the proposed materials are considered to be acceptable in visual terms.

Archaeology

No comments have been received to date from the Historic Environment Officer on this application, however comments were received on the previously refused application (138649) and would be expected to remain applicable. The Historic Environment Officer at Lincolnshire County Council has said that the site is within the historic core of North Kelsey however the previous use of the site as a quarry will more than likely have removed any remains and therefore has no objections to the application.

Highways and Access

The site will be accessed from a track off South Street. There are no concerns in relation to highway safety in relation to the proposed dwelling. An informative was also added to the response from the highways department this would have been added as a note to the applicant on the decision notice of permission was to be granted.

Foul and Surface Water Drainage

The application form states that surface water is to be disposed of by soakaways and foul sewerage is to be a package treatment plant. These methods are considered to be acceptable however if it was minded to approve the application then a drainage condition should be attached to the decision notice which would request details of a full scheme for the disposal of foul and surface waters including the results of soakaway and percolation tests.

Ecology and Protected Species

An ecology survey has been provided as part of the application and provides recommendations. Comments were received from neighbouring occupiers on the previous application (138649) which suggested that there may be Great Crested Newts within the direct vicinity of the site, the applicant was given the opportunity to respond to these comments and did so by email dated 14th January 2019, data was obtained from the Lincolnshire Environmental Records Centre which contained no records of Great Crested Newts within a 1km radius of the site. Section 5.2 of the report details how *'The rapid risk assessment tool within the great crested newt license application form (WML-A14-2) was used to assess risk'*. Following these findings the report goes on to state that *'the short and long term impacts from the proposed development will have low/negligible potential impacts on any potential great crested newt population and viable habitats. The decision is based on the following evidence. 1 In accordance with the risk assessment tool provided by Natural England in their method statement the national offence probability score is defined as 0.1 Green-Offence highly unlikely. 2. There are no records of Great Crested Newts within 1km of the site. 3. No great crested newts or evidence of great crested newts were found on site.'*

Natural England standing advice on Great Crested Newts:

<https://www.gov.uk/guidance/great-crested-newts-surveys-and-mitigation-for-development-projects>

Therefore on the evidence provided it is concluded there would be no harm to Great Crested Newts. If permission were to be granted then a condition should be placed on the decision to ensure that the development was carried out in accordance with the recommendations as outlined in the ecology survey.

Other Matters

If the committee were otherwise minded to conclude that the site is an “appropriate location” within the settlement it would need to demonstrate under LP4 that the sequential test is met, as the land is considered to be greenfield, as ‘previously developed land’ excludes ‘land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape’. Policy LP4 states that ‘Proposals for development of a site lower in the list should include clear explanation of why sites are not available or suitable for categories higher up the list.

Conclusion and reasons for decision

The decision has been considered against local policies LP1 A Presumption in Favour of Sustainable Development, LP2 The Spatial Strategy and Settlement Hierarchy, LP3 Level and Distribution of Growth, LP4 Growth in Villages, LP10 Meeting Accommodation Needs, LP17 Landscape, Townscape and Views, LP21 Biodiversity and Geodiversity and LP26 Design and Amenity of the Central Lincolnshire Local Plan and guidance contained within the National Planning Policy Framework and National Planning Practice Guidance. In light of this assessment the proposed development is not considered to be within an appropriate location as defined within policy LP2 as it will not retain the core shape and form of the settlement and will extend the built footprint of North Kelsey. The proposal would relate more to the open countryside of which no justification has been provided contrary to policy LP2 and LP55.

Recommendation: Refuse planning permission for the following reason

The proposed development is not considered to be within an appropriate location as defined within policy LP2 as it will not retain the core shape and form of the settlement and will extend the built footprint of North Kelsey. The proposal would relate more to the open countryside of which no justification has been provided contrary to policy LP2 and LP55.

Human Rights Implications:

The above objections, considerations and resulting recommendation have had regard to Article 8 and Article 1 of the First Protocol of the European Convention for Human Rights Act 1998. The recommendation will not interfere with the applicant’s and/or objector’s right to respect for his private and family life, his home and his correspondence.

Legal Implications:

Although all planning decisions have the ability to be legally challenged it is considered there are no specific legal implications arising from this report

Agenda Item 7



Planning Committee

21 August 2019

Subject: Determination of Planning Appeals

Report by:

Executive Director of Operations

Contact Officer:

Mark Sturgess
Executive Director of Operations
Mark.sturgess@west-lindsey.gov.uk
01427 676687

Purpose / Summary:

The report contains details of planning applications that had been submitted to appeal and for determination by the Planning Inspectorate.

RECOMMENDATION(S): That the Appeal decisions be noted.

IMPLICATIONS

Legal: None arising from this report.

Financial: None arising from this report.

Staffing: None arising from this report.

Equality and Diversity including Human Rights: The planning applications have been considered against Human Rights implications especially with regard to Article 8 – right to respect for private and family life and Protocol 1, Article 1 – protection of property and balancing the public interest and well-being of the community within these rights.

Risk Assessment: None arising from this report.

Climate Related Risks and Opportunities: None arising from this report.

Title and Location of any Background Papers used in the preparation of this report:
Are detailed in each individual item

Call in and Urgency:

Is the decision one which Rule 14.7 of the Scrutiny Procedure Rules apply?

i.e. is the report exempt from being called in due to urgency (in consultation with C&I chairman)

Yes

No

Key Decision:

A matter which affects two or more wards, or has significant financial implications

Yes

No

Appendix A - Summary

- i) Appeal by Mr John Bingham against the decision of West Lindsey District Council to refuse outline planning permission for two detached dwellings on land adjacent to 32 Stow Road, Willingham by Stow, Gainsborough, DN21 5LE

Appeal Dismissed – See copy letter attached as Appendix Bi.

Officer Decision – Refuse permission

- ii) Appeal by Mr Sean Mann against the decision of West Lindsey District Council to refuse planning permission to erect 2 single storey dwellings at 5 Fleets Road, Sturton by Stow, Lincoln, LN1 2BU.

Appeal Allowed– See copy letter attached as Appendix Bii.

Officer Decision – Refuse permission

- iii) Appeal by Mr G Barnes against the decision of West Lindsey District Council to refuse outline planning permission for the creation of access and outline erection of a dwelling with detached garage at Quinn A Mara, Crane Bridge Close, Willingham Road, Market Rasen.

Appeal Dismissed – See copy letter attached as Appendix Biii.

Officer Decision – Refuse permission

- iv) Appeal by Mrs Ann Griffiths against the decision of West Lindsey District Council to refuse outline planning permission for a single residential dwelling (bungalow) plot of 0.24 hectares on land adjacent to Belmont Legsby Road, Linwood, Market Rasen LN8 3DZ.

Appeal Dismissed – See copy letter attached as Appendix Biv.

Officer Decision – Refuse permission.



Appeal Decision

Site visit made on 9 July 2019

by Mrs Chris Pipe BA(Hons), DipTP, MTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 July 2019

Appeal Ref: APP/N2535/W/19/3226876

Land adjacent to 32 Stow Road, Willingham by Stow, Gainsborough DN21 5LE

- 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 John Bingham against the decision of the West Lindsey District Council.
 - The application Ref 138786, dated 14 December 2018, was refused by notice dated 8 February 2019.
 - The development proposed is described as outline planning application for two detached dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The application was submitted in outline with all matters reserved for future consideration, I have considered the appeal on this basis.

Main Issue

3. The main issue in this appeal is the effect of the proposed development on the character and appearance of the area.

Reasons

4. The site is part of a wider agricultural field to the south of the village, Willingham by Stow. The site is located adjacent No. 32 Stow Road which is a detached property, separated from the uniformed layout of the adjacent residential properties by a track known as Water Furrow Lane.
5. The site is separated from the built form of the village by Water Furrow Lane and a well-established tree and shrub belt which presents a strong natural boundary between the village and open countryside. This natural boundary screens the urban form of the village and makes a positive contribution to the rural character and setting of the village.
6. No. 32 Stow Road does extend the built form of the village beyond the natural boundary, however due to its corner location, its form and design, it does not erode the rural nature of the area.

7. The proposed development would be a prominent feature which would further extend the urban form into the open countryside. The proposed development would not integrate well with the existing urban form.
8. Landscaping could be provided along the appeal site boundary with the wider field, which would be subject to a reserved matter planning application. However, I have not been presented with substantive evidence to persuade me that this would preserve the setting of the village and sufficiently soften the appearance of the proposed development.
9. I therefore conclude that the development would significantly harm the character and appearance of the area. There is conflict with Policies LP2, LP4, LP17 and LP26 of the Central Lincolnshire Local Plan (2017) which amongst other things seek to protect the character and appearance of the area including core shape, form and setting of a settlement and landscape quality.
10. My attention has been drawn by the appellant to modern housing and other consents granted in the area, however substantive details have not been provided to allow me to compare the developments to that of the appeal proposal. Nevertheless, I note that the areas indicated are different to the appeal site and appear to be well integrated to the settlement and not located in an area which forms a continuous part of the open countryside beyond a strong natural boundary. Notwithstanding this each proposal must be considered on its individual merits, and that has been the basis of my assessment in respect of this proposal.

Other Matters

11. The proposed development would be a modest addition to the housing market and whilst it may support services and facilities within the village, this would not outweigh the harm I have identified above.
12. I note concerns raised by neighbours relating to other issues, however, given my findings on the main issue it has not been necessary for me to reach a conclusion on these matters.

Conclusion

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

C Pipe

INSPECTOR



Appeal Decision

Site visit made on 3 June 2019

by K Ford MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 July 2019

Appeal Ref: APP/N2535/W/19/3223625

5 Fleets Road, Sturton by Stow, Lincoln LN1 2BU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Sean Mann against the decision of West Lindsey District Council.
 - The application Ref 138731, dated 7 December 2018, was refused by notice dated 15 February 2019.
 - The application sought planning permission to erect 2 single storey dwellings, all matters reserved without complying with a condition attached to planning permission Ref 132701, dated 22 December 2015.
 - The condition in dispute is No 4 which states that: no development shall take place until the Lead Local Flood Authority, Lincolnshire County Council, have completed flood mitigation works at the site.
 - The reason given for the condition is: to mitigate the risk of flooding of the site in accordance with the National Planning Policy Framework and saved Policies STRAT1 and RES 1 of the West Lindsey Local Plan First Review 2006.
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Decision

1. The appeal is allowed and planning permission is granted to erect 2 single storey dwellings, all matters reserved at 5 Fleets Road, Sturton by Stow, Lincoln LN1 2BU in accordance with the application Ref 138731, dated 7 December 2018, without compliance with condition No. 4 previously imposed on planning permission Ref 132701, dated 22 December 2015 but subject to the conditions contained in the Schedule to this Decision.

Background and Main Issue

2. The appeal site, which is formed from garden land associated with the property known as Catherine, was originally granted outline planning permission with all matters reserved for 2 single dwellings on 22 December 2015.
3. Whilst the site is located within flood zone one, the area has surface water flooding. Consequently, condition 4 of the permission prevented any development taking place on the site until the Lead Local Flood Authority (Lincolnshire County Council) had completed flood mitigation works at the site. The 'notes to the applicant' at the end of the Decision notice references details of the drawing identifying the works¹ which seek to reduce the risk of internal

¹ Drawing No HPEA0029/01

- flooding for 6 properties. The works would be located on the appeal site, along with that of Dunramblin, an adjacent dwelling and Highway Authority land.
4. Reserved matters approval for all outstanding matters was granted in April 2018² and the Council has identified that all the other pre-commencement conditions except the condition subject to the appeal have been discharged.
 5. Paragraph 55 of the National Planning Policy Framework (NPPF) advises that conditions should only be imposed that are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.
 6. The appellant seeks amendment to the condition, proposing 2 alternative options instead.
 7. The main issue is whether the condition is reasonable and necessary to protect the occupants from the risk of flooding.

Reasons

8. The wording of the Council's condition simply refers to flood mitigation works. Whilst the notes to applicant does refer to the drawing number of the flood mitigation scheme proposed by the Lead Local Flood Authority, the Planning Practice Guidance (PPG) is clear that informative notes do not carry any legal weight and cannot be used in lieu of planning conditions or a legal obligation to try and ensure adequate means of control for planning purposes. The condition as worded is not therefore precise.
9. The Council say that the Lead Local Flood Authority has specific intention to implement the scheme. Nevertheless, there is no reference in the condition to timescales for either the commencement or completion of the works and I have not been provided with any material indicating that there are prospects of the works being implemented during the lifetime of the planning permission. The time constraints for the planning permission the Council refer to, which are contained in condition 3 of the 2015 permission, provide little comfort. This is particularly given the appellant has referenced a Council report which acknowledges that because of access issues and funding cuts the works may never be implemented. In this context, the requirements of the condition are unreasonable and the PPG advises against the use of Grampian conditions in such circumstances.
10. The appellant has proposed 2 alternative forms of wording for a condition that would require alternative measures as part of a surface water strategy to mitigate the impact of the risk of flooding as a consequence of the development. However, although the proposal referred to by the appellant in their suggested conditions would manage the surface run-off generated by the development, it would not provide the additional attenuation needed to reduce the overall potential flood risk on the site and the neighbouring residential properties. It does not therefore provide a suitable alternative scheme to mitigate the flood risk. Neither of the appellant's proposed conditions would therefore be fit for purpose.

² Planning application reference 137417

11. It is acknowledged by both parties that a condition to mitigate the risk of flooding is necessary. However, the Council's condition as worded ties delivery of the development to a flooding scheme that may never be implemented and the alternative conditions proposed by the appellant are not fit for purpose. I have therefore imposed a revised condition requiring flood mitigation works, the scope of which can be a matter of negotiation between the main parties during the submission and approval process. The approved scheme does not have to be that previously proposed by the Lead Local Flood Authority for the reasons identified. Nor should the scheme be expected to deal with off site works that are not associated with the development.

Other Conditions

12. Turning to the other conditions, the PPG explains that Decision Notices for the grant of planning permission under section 73 should also repeat relevant conditions from the original planning permission, unless they have already been discharged.
13. The Council has identified that conditions 5-9 of the 2015 planning permission relating to boundary treatment, landscaping, drainage and access have been discharged. They therefore do not need to be repeated. As the reserved matters application has been submitted, condition 2 is also no longer necessary.
14. An application for reserved matters has already been submitted, and so a time restriction relating to this is unnecessary. However, I have retained a time limitation for commencement. The Council has indicated that as no further reserved matters can be submitted, commencement of the development must be before 2 years of the date of the last approved reserved matter, which is 18 April 2020. However, I have imposed a standard 3 year time constraint to enable adequate time for negotiation and agreement between the parties on the proposed flooding scheme.
15. A condition specifying the relevant drawings has been retained as this provides certainty. A condition restricting the height of the development is necessary to protect the character and appearance of the area and the living conditions of neighbouring properties.
16. Condition 13 of the 2015 planning permission takes away permitted development rights. The PPG advises that conditions restricting the use of permitted development rights will rarely pass the test of necessity and should be used in exceptional circumstances. In this case exceptional circumstances have not been demonstrated. A condition on the implementation of the landscaping scheme, as identified in condition 14 of the 2015 planning permission is not necessary or relevant as it is a reserved matter.

Conclusion

17. For the above reasons I conclude that the appeal should be allowed and a new planning permission should be granted.

K Ford

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this Decision.
2. With the exception of the detailed matters referred to by the conditions of this consent, the development hereby approved shall be carried out in accordance with the following drawings: Proposed Site plan dated 12/204. The works shall be carried out in accordance with the details shown on the approved plans and in any the approved documents forming part of the application.
3. No development shall take place until flood mitigation works at the site have been carried out in accordance with a scheme that shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved scheme.
4. The dwellings hereby approved shall be single storey only with no rooms in the roof.



Appeal Decision

Site visit made on 2 April 2019

by **A Graham BA(hons) MAued IHBC**

an Inspector appointed by the Secretary of State

Decision date: 3rd July 2019

Appeal Ref: APP/N2535/W/18/3219380

Quinn A Mara, Crane Bridge Close, Willingham Road, Market Rasen.

- 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 G Barnes against the decision of West Lindsey District Council.
 - The application Ref 137764, dated 6 May, 2018, was refused by notice dated 28 June, 2018.
 - The development proposed is for creation of access and outline erection of a dwelling with detached garage.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The application is in outline with all matters reserved. The appellant has submitted a proposed layout. As the application is in outline the appellant is not tied to what is shown on this plan. However, in the absence of details of any alternative layouts I have treated this as indicative of the applicant's intentions and I have assessed the proposal accordingly.

Main Issue

3. The main issue to be considered is the effect of the proposal upon the character and appearance of the area through its effect upon the landscape character of this part of Willingham Road.

Reasons

4. The appeal site is an area of front garden land currently belonging to the application property Quinn A Mara. Quinn A Mara sits on a large plot and is accessed by a driveway that appears to be shared with an immediate neighbour. To the rear of the existing house there is a large area of hardstanding with a modern housing estate beyond.
5. The front garden is currently lawned with hedges to its perimeter and several semi mature trees that give the front garden an attractive appearance from both within and without the appeal site.
6. Willingham Road forms a direct route into the market town of Market Rasen. Although there are buildings closer to the edges of Willingham Road farther to the east, including houses and more industrial properties, the overriding character of the immediate vicinity of the appeal site is one where properties

are well set back within their gardens and where hedges, trees and highway verges soften the approach into the town. I consider that this is to the benefit of the character and appearance of the area.

7. Policy LP17 of the Central Lincolnshire Local Plan intends to protect the intrinsic value of landscape and townscape of settlements and those features which positively contribute the character of an area.
8. Through the introduction of a new dwelling house into this frontage garden, this important and verdant character will be adversely affected through the introduction of built form that is substantially closer to the road frontage. As a result, harm will occur through the introduction of built form in a place where currently front gardens define the overriding character of the site and its immediate neighbours.
9. The site also contains two trees that have recently been designated under a Tree Preservation Order (TPO No2 2018). Notwithstanding the TPO, the applicants Arboricultural report has categorised two of these trees (T2 and T4) as Category B trees. This is an indicator of good quality and good health with a likely life expectancy of at least 20 years.
10. The proposed plan would see the new dwelling sited within close proximity to T4 which would be a large feature within what I consider would become an important part of the useable garden space. I consider it likely therefore that pressure upon this tree would occur for extra pruning or even future removal due to the unavoidable impact of overshadowing, leaf drop etc. This would cause further harm to the overall landscape character of this part of Willingham Road.
11. Despite the property of Quinn A Mara having adequate space to the rear for the residents of the house, the proposal would see the new dwelling placed in close proximity to its primary, front elevation. This would not only preclude the new dwelling from having principal windows facing in this direction, but it would also adversely harm the existing principal elevation of Quinn A Mara itself. As a result, Quinn A Mara would lose its outlook to the front and there would be an adverse impact upon the living conditions of existing and future residents. This would therefore conflict with the desire to protect the living conditions of neighbours contained within Policy LP26 of the Central Lincolnshire Local Plan.

Conclusion

12. The proposal will erode the existing landscape character of this major approach to Market Rasen through the introduction of new development within an existing front garden area and harm the living conditions of existing and future residents. As a result of this serious harm will occur that is contrary to Policies LP17 and LP26 of the Central Lincolnshire Local Plan.

A. Graham

INSPECTOR



Appeal Decision

Site visit made on 3 June 2019

by K Ford MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 June 2019

Appeal Ref: APP/N2535/W/19/3223529

Land adjacent Belmont Legsby Road, Linwood, Market Rasen LN8 3DZ

- 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 Mrs Ann Griffiths against the decision of West Lindsey District Council.
 - The application Ref 138375, dated 19 September 2018, was refused by notice dated 7 November 2018.
 - The development proposed is described as 'single residential dwelling (bungalow) plot site 0.24 hectares. Existing access/ gateway to plot site from Legsby Road'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since determination of the planning application a revised version of the National Planning Policy Framework (NPPF) has been published in February 2019. References to the NPPF in this Decision consequently reflect the 2019 NPPF.
3. The application is in outline with all matters reserved. I have determined the appeal on that basis.

Main Issue

4. The main issue is whether the appeal site represents an appropriate location for housing having regard to national and local policies which seek to protect the character and appearance of the countryside.

Reasons

5. The appeal site is a square shaped plot of paddock land, largely bounded by a mix of trees and hedgerow. Whilst located close to a neighbouring property, Belmont, there are open fields to the north, east and south contributing to a rural open character. The site is located outside the nearby settlements of Linwood and Market Rasen and so for planning purposes is located in the countryside.
6. Policy LP2 of the Central Lincolnshire Local Plan (Local Plan) identifies a spatial strategy and settlement hierarchy that directs development to appropriate locations. This policy, along with Policy LP55 of the Local Plan restricts

development in the countryside to that which meets an identified criteria. On the evidence before me the proposal does not meet that criteria.

7. The appellant has identified that the site is a 20 minute walk from schools, a supermarket, shops, Festival Hall, leisure centre, doctors surgery and dentist. However, I am not convinced that access to the facilities would be via a desirable route for families with young children, older people and those with mobility issues. This is because of the unlit, high speed nature of the road and the absence of a footpath along part of the route, even if the grass verge that exists is well maintained.
8. The appellant has identified alternative walking routes into Market Rasen. Although they would be traffic free, from my observations on my site visit they would not address the other concerns identified. The occupants of the dwelling in all likelihood would be reliant on the car to access services and facilities to meet day to day needs. I do not therefore consider that the proposal would support the provisions of paragraph 103 of the NPPF which states that planning should actively manage patterns of growth to support the use of public transport, walking and cycling.
9. The new dwelling would provide some benefit in terms of supporting housing supply. However, the addition of one property would have a minimal impact on housing provision in the area and would be significantly and demonstrably outweighed by the harm I have identified.
10. I note the appellant's willingness to provide a high quality design and that they identify that the design and other reserved matters, including landscaping would not cause harm. Even if this were the case, it would not address the harm created by the location of the development.
11. The proposal would be sited in an inappropriate location which would harm the character and appearance of the countryside. It would therefore conflict with Policy LP1 and Policy LP2 of the Local Plan which supports sustainable development in appropriate locations and Policy LP55 of the Local Plan which supports new dwellings in the countryside where it is essential for the effective operation of rural operations.

Conclusion

12. For the reasons identified, I conclude that the appeal should be dismissed.

K Ford

INSPECTOR