

Officers Report

Planning Application No: 139256

PROPOSAL: Planning application for 2no. single storey dwellings-resubmission of 138643

LOCATION: Land east of Upton Road Kexby Gainsborough DN21 5NF

WARD: Lea

Ward Member(s): Cllr Milne

APPLICANT NAME: Gelder Ltd & Mr C Keyworth

TARGET DECISION DATE: 11/06/2019

DEVELOPMENT TYPE: Minor - Dwellings

CASE OFFICER: Richard Green

RECOMMENDED DECISION: Refuse

This application for planning permission has been referred to the Committee at the request of the Ward Member, and following the submission of a Landscape Visual Impact Assessment with the application.

Description:

The site is located in the countryside and is an orchard situated to the south of 'The Old Mill House' Upton Road, Kexby which is a detached two storey dwelling. To the west, east and south of the site are agricultural fields/paddocks. The site rises from Upton Road to the west up to the eastern boundary of the site. In terms of boundary treatments there is a hedgerow on the western boundary of the site and sporadic trees on the southern boundary. The eastern boundary has a low level open fencing and there are several varieties of trees and sections of post and rail fencing on the northern boundary of the site. The site is within a designated Green Wedge.

It is proposed to erect two detached 2 bedroom bungalows on the site with integral single garages (the proposed floor plans show 2 bedroom bungalows but the design and access statement states 3 bedroom dwellings). A single access point (split into two) is proposed off Upton Road which leads to an area of hard standing in front of the principal (west) elevations of the bungalows. The hard standing provides for a turning area and off road car parking. To the east (rear) of the dwellings is the main outside amenity space. Several trees within the site will need to be removed to facilitate the development and a section of hedgerow on the western boundary.

The application is the same as the previously refused application (138643) apart from a Landscape Visual Impact Assessment.

Relevant history:

138643 – Full planning application for 2no. single storey dwellings. Refused 28/01/2019 **(same applicant as this application)**.

W53/677/88 – Outline planning application to erect 41 dwellings refused 07/09/88.

Site to the south within the green wedge:

W53/677/88 – Outline planning application to erect 41 dwellings refused 07/09/88.

W53/148/91 – Outline planning application to erect 16 dwellings refused 04/04/91.

136762 – Full planning application to erect 6no. bungalows refused 16/11/2017 **(same applicant as this application)**.

137547 – Full planning application to erect 4no. bungalows refused 04/05/2018 **(same applicant as this application)**.

138127 - Full planning application to erect 4no. bungalows. 'The Local Planning Authority is of the view that the current application (ref. 138127) relates to development and land that is the same, or substantially the same, as that considered on more than one application that has previously been refused. Whilst the number of residential units have reduced, this is not the important material consideration, it is the principle of development in the open countryside which is the key factor to consider. The LPA do not believe there to be any significant change in the relevant considerations since those decisions.' Deemed withdrawn 01/08/2018 **(same applicant as this application)**.

Representations:

Chairman/Ward member(s): Cllr Milne (Ward Cllr) – I request that this application goes before Planning Committee for the following reasons:

- Part 1 of Policy LP22 states that 'as long as proposals do not cause any physical or perceived merging of settlements or compromise the local character of the landscape surrounding the villages' therefore this proposal is not contrary to the function and policy aim of Part 1 of Policy LP22.
- The site is presently an Orchard and not Green Wedge. It has no impact on the actual village its self and its character.
- LP22 states that 'whilst the purpose of the green wedges is to protect the open and undeveloped character of areas within them' (it is not intended they should operate as an absolute restriction on all development proposals).
- Part 2 of LP22 – Provided criterion a. is satisfied as is the case here there is no requirement to consider whether it is 'essential' for the proposed development to be located within the green wedge as

required in criterion b. The development would not lead to the coalescence of Kexby or Upton or the weakening of the strategic break as it is located in an existing orchard which has no impact on the green wedge. Surely anyone can apply to build in an orchard!!!

- Planning Practice states that 'many older people may not want or need specialist accommodation.' Bungalows are sought after and at a premium in West Lindsey for an increasingly elderly population.
- The properties will be close to a local bus service, village hall (where a post office is held). There is a village shop, fish and chip shop and local pub in Upton.
- Policies: LP1, LP2, LP4, LP10, LP13, LP15, LP26 apply.

Parish Council: No representations received to date.

Local residents: 1A, Westgate, Kexby objects for the following reasons:

- We would wish to reiterate our response to the previous application 138643 which underpins this. This is yet again a repeat application affecting the Green Wedge designated site at Westgate/Upton Road.
- We believe as with previous applications it should be refused for non-compliance with the WLDC supported Central Lincolnshire Plan and the material considerations with the previous refusals are intrinsic to this application.

The applicant is yet again attempting to wear down opposition to development on the Green Wedge at Upton Road/Westgate Kexby with what is now the fifth application. Three applications siting the entrance from Westgate and this being the second identifying Upton Road as a change of location, which is one and the same, still within the Green Wedge designation.

- These bungalows and design footprint are contrary to the Central Lincolnshire Plan Policies LP17 and LP26.
- Loss of the important views into the space and subsequent loss of the orchard and on through the site and out from the village. These are essential to protecting the functions and aims of the Policy LP22 of the Central Lincolnshire Plan (Green Wedge). The loss of the orchard element will have significant impact to the site and vista.
- If 2 Bungalows are granted permission within the Green Wedge they will be followed in short order with applications for more units and continual development of the site using the same or similar justification for expansion. LP22: Green Wedges, 'Prevention of the physical merging of settlements, preserving their separate identity, local and historic character', will have been circumvented.

Runnymede, Westgate, Kexby objects for the following reasons:

Previous applications on this site and the surrounding field by the same person/company have been refused, the planning committee even stating a clause that they felt they were being "bombarded" with applications. How has this application differed from the last one substantially enough to warrant being granted?

LCC Highways and Local Lead Flood Authority: No representations received to date. But as the application is exactly the same as the previously refused application (138643) then the following comments made previously still stand:

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. If it is minded to grant planning permission one condition and an informative is suggested.

LCC Minerals and Waste: No representation received to date.

Trees and Landscape Officer: My previous comments are still applicable (see below). As much hedge as possible should be retained for amenity and character of the area, and as native hedgerows are a priority habitat in the Lincolnshire BAP (Biodiversity Action Plan), and any gaps/thin areas infill planted.

Previous comments 138643 - Several trees within the site will need to be removed to facilitate the development and a section of hedgerow on the western boundary. However, the site is not considered to be ancient orchard and the trees are not worthy of retention in their own right. However, they do add to the landscape character of the area. Is there scope for new planting in compensation for lost trees and for screening/softening of any new dwellings.

Archaeology: No representation received to date. No archaeological impact stated on the previous application (138643).

Relevant Planning Policies:

Local Policy:

Central Lincolnshire Local Plan 2012-2036 (Adopted April 2017)

LP1: A Presumption in Favour of Sustainable Development

LP2: The Spatial Strategy and Settlement Hierarchy

LP13: Accessibility and Transport

LP14: Managing Water Resources and Flood Risk

LP17: Landscape, Townscape and Views

LP22: Green Wedges

LP26: Design and Amenity

LP55: Development in the Countryside.

The CLLP is available to view here: <https://www.n-kesteven.gov.uk/centrallincolnshire/local-plan/>

Lincolnshire Minerals and Waste Plan

The Core Strategy & Development Management policies (CSDMP) were adopted in June 2016 and form part of the Development Plan. The application site is within a Mineral Safeguarding Area (MSA). Policy M11 applies.

The Site Locations were adopted in December 2017. The site is not within an allocated Minerals Site or Waste Site/Area.

Neighbourhood Plan:

No neighbourhood plan currently being prepared.

National Guidance:

National Planning Policy Framework (NPPF)

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/740441/National_Planning_Policy_Framework_web_accessible_version.pdf

National Planning Practice Guidance (NPPG)

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

Main issues:

- Principle of the Development
- Green Wedge/Settlement Break
- Visual Amenity
- Residential Amenity
- Foul and Surface Water Drainage
- Highway Safety
- Trees and Landscaping
- Garden Space
- Other Matters

Assessment:

Principle of Development

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

The site is an orchard separated by trees and sections of post and rail fence on its northern boundary from the garden of the 'The Old Mill House' Upton Road, Kexby which is a detached two storey dwelling. To the west, east and south of the site are agricultural fields/paddocks. The site is therefore deemed to be in the countryside outside of any settlement.

Planning policy at local and national level 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 application site is not in Kexby because it is separated from the continuous built footprint (dwellings to the south of Upton Road) of the settlement by a field/paddock. The site is to the south of a group of dispersed dwellings and buildings which are clearly detached from the continuous built form of the settlement. This is perhaps much more obvious on site than on a plan due to the rural nature of the area and its topography. The physical separation of the site from Kexby also means it does not meet the definition of any tier of the sequential test set out in Policy LP4 and is therefore contrary to it.

Policy LP55 of the Central Lincolnshire Local Plan (CLLP) states that planning permission for new dwellings in the countryside will only be acceptable where they are essential to the effective operation of rural operations listed in category 8 of Policy LP2 such as development that is demonstrably essential to the effective operation of agriculture, horticulture, forestry, outdoor recreation, transport or utility services; renewable energy generation or minerals or waste development. No evidence has been provided to demonstrate that the proposed dwellings would fall within any of the specified categories of development that would be appropriate in this location.

The principle of development therefore cannot be supported as the proposal is located within the countryside and conflicts with the NPPF and Policy LP2 and LP55 of the Central Lincolnshire Local Plan. Furthermore, the site is also located within a Green Wedge (see section below of this report) which has been designated under Policy LP22 of the Central Lincolnshire Local Plan in order to prevent the physical merging of Kexby and Upton as well as other functions and policy aims. The site is therefore considered to be an inappropriate location contrary to Policy LP2, LP4, LP22 and LP55 of the Central Lincolnshire Local Plan.

Green Wedge

The site is located in the Green Wedge which has been designated under Policy LP22 of the Central Lincolnshire Local Plan.

An Landscape Visual Impact Assessment (April 2019) has been submitted with this application. It concludes that *'the proposals represent two single storey dwellings which is considered to be a small scale new development. The built form in both villages is predominantly single and two storey dwellings of varying sizes and ages. The proposals do not cause any physical or perceived merging of the settlements or compromise the local character of the landscape surrounding the villages. There is no direct, and very limited indirect, impact on the potential users of the highway footpath in proximity to the application Site. Therefore, the functions of the Green Wedge in this location are preserved.'*

The Green Wedge has been designated in order to prevent the physical merging of Kexby and Upton as well as other functions and policy aims listed below:

- Prevention of the physical merging of settlements, preserving their separate identity, local character and historic character;
- Creation of a multi-functional 'green lung' to offer communities a direct and continuous link to the open countryside beyond the urban area;
- Provision of an accessible recreational resource, with both formal and informal opportunities, close to where people live, where public access is maximised without compromising the integrity of the Green Wedge;
- Conservation and enhancement of local wildlife and protection of links between wildlife sites to support wildlife corridors.

Within Green Wedges planning permission will not be granted for any form of development, including changes of use, unless:

- a. it can be demonstrated that the development is not contrary or detrimental to the above functions and aims; or
- b. it is essential for the proposed development to be located within the Green Wedge, and the benefits of which override the potential impact on the Green Wedge.

It is considered that this proposal is not essential to be located in this location. There are other sites in Kexby outside of the Green Wedge which can accommodate this growth in more appropriate locations. This site is part of the verdant transition between Kexby and Upton which in turn helps to support the characteristics of the Green Wedge. The policy test is how the proposal would impact on the role of the green wedge. The proposal, in this location would effectively remove this distinct open rural gap/ green wedge between the Old Mill House and Kexby itself. The gap from the garden boundary of the Old Mill House to Westgate is approximately only 91m and the proposed would reduce this gap to approximately 40m. Such a development would therefore realistically change this open gap for another block of built development with the remaining field (41m) unable to maintain the character and function of the green wedge unacceptably eroding the open character between the village and the Old Mill House. It is therefore considered critical to function of the green wedge to maintain this open site. The development would also cumulatively expand and strengthen the dispersed grouping of properties built between Kexby and Upton further eroding the function of the green wedge. It would not contribute towards, and would otherwise conflict with, the functions and aims of the green wedge, as set out in policy LP22. Development in this location is therefore contrary to Policy LP22 and the functions and aims of the Green Wedge.

Visual Amenity

Local Plan Policy LP26 states that all development proposals must take into consideration the character and local distinctiveness of the area (and enhance or reinforce it, as appropriate) and create a sense of place. As such, and where applicable, proposals will be required to demonstrate, to a degree proportionate to the proposal, that they are well designed in relation to siting,

height, scale, massing and form. The policy also states that the proposal should respect the existing topography, landscape character, street scene and local distinctiveness of the surrounding area and should use appropriate, high quality materials which reinforce or enhance local distinctiveness. Any important local view into, out of or through the site should not be harmed.

It is proposed to erect two detached 2 bedroom bungalows on the site with integral single garages (the proposed floor plans show 2 bedroom dwellings but the design and access statement states 3 bedroom dwellings). A single access point (split into two) is proposed off Upton Road which leads to an area of hard standing in front of the principal (west) elevations of the bungalows. The hard standing provides for a turning area and off road car parking. To the east (rear) of the dwellings is the main outside amenity space.

This site (an orchard) is part of the verdant transition between Kexby and Upton which in turn helps to support the characteristics of the Green Wedge. It is considered that the proposal to build two bungalows with a large area of hard standing proposed to the west (front) of the dwellings in this location is contrary to Policy LP17, LP22 and LP26 as it will block important views into, out of or through the site which are essential to protecting the functions and aims of the Green Wedge.

Residential Amenity

Local Plan Policy LP26 states that planning permission will be granted for new development provided the proposal will not adversely affect the residential amenity of neighbouring properties by virtue of overlooking, overshadowing, loss of light or over dominance.

It is proposed to build 2 bungalows with the proposed access taken off Upton Road. There are no surrounding dwellings to the west, east and south of the site. To the north is the garden of 'The Old Mill House' Upton Road, Kexby which is a two storey detached property. Plot A the nearest bungalow to this property will have two windows' in its northern elevation to a bathroom and a study at ground floor level. It is therefore considered that the proposal will not have a harmful impact on the living conditions of neighbouring dwellings.

Foul and Surface Water Drainage

The treatment of foul sewerage is marked as unknown on the application form and surface water will be dealt with by a sustainable drainage system. The appropriateness of the intended method(s) cannot be assessed at this stage.

The NPPG states in Paragraph: 020 Reference ID: 34-020-20140306 that *'when drawing up wastewater treatment proposals for any development, the first presumption is to provide a system of foul drainage discharging into a public sewer to be treated at a public sewage treatment works (those provided and operated by the water and sewerage companies). This should be done in consultation with the sewerage company of the area.*

Where a connection to a public sewage treatment plant is not feasible (in terms of cost and/or practicality) plant can be considered. This could either be

adopted in due course by the sewerage company or owned and operated under a new appointment or variation. The package sewage treatment plant should offer treatment so that the final discharge from it meets the standards set by the Environment Agency'.

In terms of surface water drainage Policy LP14 of the Central Lincolnshire Local Plan states that development proposals should demonstrate that they have incorporated Sustainable Drainage Systems (SuDS) in to the proposal unless they can be shown to be impractical.

If permission was to be granted a planning condition to secure full foul and surface water drainage details would be recommended

A condition would also be attached to the decision notice if permission was to be granted requiring that any hardstanding should be constructed from a porous material and be retained as such thereafter or should be drained within the site.

Highway Safety

A single access point (split into two) is proposed off Upton Road which leads to an area of hard standing in front of the principal (west) elevations of the bungalows. The hard standing provides for a turning area and off road car parking. Each bungalow will also have an integral garage fronting the hard standing.

Lincolnshire County Council have made no comments on this application but previously did not object to 138643 (exactly the same proposal).

Trees and Landscaping

The site is located in the countryside and is an orchard with several trees within the site. In terms of boundary treatments there is a hedgerow on the western boundary of the site and sporadic trees on the southern boundary. The eastern boundary has a low level open fencing and there are several varieties of trees and sections of post and rail fencing on the northern boundary of the site. The site is within a designated Green Wedge.

The Tree and Landscape Officer states that 'several trees within the site will need to be removed to facilitate the development and a section of hedgerow on the western boundary. However, the site is not considered to be ancient orchard and the trees are not worthy of retention in their own right. However, they do add to the landscape character of the area. Is there scope for new planting in compensation for lost trees and for screening/softening of any new dwellings' and also states 'as much hedge as possible should be retained for amenity and character of the area, and as native hedgerows are a priority habitat in the Lincolnshire BAP (Biodiversity Action Plan), and any gaps/thin areas infill planted'.

If permission were to be granted a condition would be attached to the decision notice to retain, protect and enhance the remaining hedgerow on the western boundary of the site. A condition would also be attached which would require

a scheme of landscaping and compensatory tree planting to be submitted and approved by the Local Planning Authority prior to commencement of the development.

Garden Space

The proposed bungalows are located approximately centrally on each of the plots with approximately 13-15 metres of private rear amenity space (to the east) being provided for each plot. There is some landscaping also provided to the front and side of each of the dwellings.

The development provides for an acceptable amount of private amenity space for each of the proposed bungalows.

Other Matters:

Minerals and Waste

The application site is within a Mineral Safeguarding Area (MSA). Policy M11 of the Core Strategy & Development Management policies (CSDMP 2016) therefore applies. It is considered that the development is of a minor nature which will have a negligible impact with respect to sterilising the mineral resource and therefore planning permission should be granted. No objection has been received from Lincolnshire County Council Minerals and Waste team.

Balancing evaluation and conclusion:

The decision has been considered against policy LP1: A Presumption in Favour of Sustainable Development, LP2: The Spatial Strategy and Settlement Hierarchy, LP13: Accessibility and Transport, LP14: Managing Water Resources and Flood Risk, LP17: Landscape, Townscape and Views, LP22: Green Wedges, LP26: Design and Amenity and LP55: Development in the Countryside of the adopted Central Lincolnshire Local Plan and the guidance contained in National Planning Policy Framework and National Planning Practice Guidance. In light of this assessment it is considered that the proposal is not acceptable and is refused for the following reason(s):

1. The site is in the countryside as it is clearly detached from the main built foot print of Kexby with agricultural fields/paddocks to the west, east and south of the site. The site is to the south of a group of dispersed dwellings and buildings which area clearly detached from the continuous built form of the settlement. The physical separation of the site from Kexby also means it does not meet the definition of any tier of the sequential test set out in Policy LP4 and is therefore contrary to it.

Policy LP55 of the Central Lincolnshire Local Plan (CLLP) states that planning permission for new dwellings in the countryside will only be acceptable where they are essential to the effective operation of rural operations listed in category 8 of Policy LP2 such as development that is demonstrably essential to the effective operation of agriculture, horticulture, forestry, outdoor recreation, transport or utility services; renewable energy generation or minerals or waste development.

Insufficient evidence has been provided to demonstrate that the proposed dwelling would fall within any of the specified categories of development that would be appropriate in this location.

The principle of development therefore cannot be supported as the proposal is located within the countryside and conflicts with the NPPF and Policy LP2 and LP55 of the Central Lincolnshire Local Plan. Furthermore, the site is also located within a Green Wedge (see section below of this report) which has been designated under Policy LP22 of the Central Lincolnshire Local Plan in order to prevent the physical merging of Kexby and Upton as well as other functions and policy aims. The site is therefore considered to be an inappropriate location contrary to Policy LP2, LP4, LP22 and LP55 of the Central Lincolnshire Local Plan.

2. It is not considered essential that this proposed residential development is located within the Green Wedge. There are other sites in Kexby outside of the Green Wedge which can accommodate growth in more appropriate locations. This site is part of the verdant transition between Kexby and Upton which in turn helps to support the characteristics of the Green Wedge. Development in this location is therefore contrary to Policy LP22 and the functions and aims of the Green Wedge. Furthermore, the proposal to build two bungalows and associated hard standing in this location is contrary to Policy LP17 and LP26 as it will block important views into, out of or through the site which are essential to protecting the functions and aims of the Green Wedge (Policy LP22).

Recommendation

It is recommended that Planning Committee delegate powers to officers to refuse the application.