

Appeal Decision

Site visit made on 20 September 2016

by Nick Palmer BA (Hons) BPI MRTPI

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

Decision date: 05 October 2016

Appeal Ref: APP/N2535/W/16/3152072

Land off Granary Close, Morton, Gainsborough

- 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 & Mrs Youngman against the decision of West Lindsey District Council.
 - The application Ref 133918, dated 11 January 2016, was refused by notice dated 26 April 2016.
 - The development proposed is residential development of up to 37 N^o dwellings, including 10 N^o affordable homes.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The application is for outline permission with all matters except access reserved. An indicative master plan has been submitted and I shall consider that plan on the basis that it indicates a possible layout. I shall also consider the submitted dwelling plans as being indicative.
3. The Council advises that a slightly revised description from that given on the application form was agreed between the parties. I have used that description in the heading.

Main Issues

4. The main issues in the appeal are:
 - i) the effect of the proposed development on the character and appearance of the area;
 - ii) whether or not the proposed development would be acceptable in terms of flood risk; and
 - iii) consideration of housing land supply and relevant planning policies for the location of new housing development.

Reasons

Character and Appearance

5. The appeal site is an open field which adjoins the built up area of Morton on two sides. The field is used as paddocks and adjoins the back gardens of houses on Granary Close and Mill Road. It has two access points from Mill
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Road which are intended to be used as pedestrian routes and for emergency access purposes. Vehicular access would be from Granary Close through a gap between houses. To the south-west of the site and adjacent to one of the field accesses is a converted former mill which is listed at grade II. The site is outside the settlement boundary as identified in the West Lindsey Local Plan First Review (LP) (2006).

6. The site adjoins open countryside and provides an open aspect from the rear of the adjacent dwellings. As open land in close proximity to the mill the site at least in part forms part of its setting. The Council has not raised any concern about the proposed development harming the setting of the listed building. I concur with this view because the mill is already practically surrounded by housing development and the appeal site has a degree of separation from it. The indicative layout plan indicates that areas of open space would be maintained in the corner of the site nearest to the listed building and in the northern part of the site. For these reasons the setting of the listed building would not be harmed.
7. It is intended to develop the southern part of the site and to leave the northern part open to provide public open space, allotments and a nature reserve. The extent of the proposed development in relation to the existing built framework would be modest. The landscape is not identified as being of particular sensitivity or value and the trees which I saw along parts of the site boundaries would partially screen the proposed development from view across the countryside. Nonetheless the development would be intrusive in the context of the existing open landscape when seen from the adjacent built up area, including from the rear of the adjacent houses. The proposals include the raising of ground levels in order to reduce flood risk and the resultant high levels of the development would increase its visual prominence.
8. For these reasons I find that the proposal would have a harmful effect on the character and appearance of the area but that that effect would be limited. The proposal would not accord with saved policy STRAT 1(vi) of the LP which requires that impact on character and appearance is considered.

Flood Risk

9. The site and indeed the whole of the village of Morton is within Flood Zone 3 as identified on the Environment Agency's mapping and as such has a 1 in 100 or greater annual probability of flooding from the River Trent which is to the west of the village and potentially from a nearby reservoir. The river benefits from maintained flood defences which would in practice protect the site from a 1 in 200 year flood event. However the effectiveness of the defences cannot be guaranteed and in the event of a breach the site would be inundated to a depth of at least 0.5 metre.
10. The Environment Agency has advised for the purposes of flood risk mitigation that finished floor levels should be set 0.3 metre above that flood level. In accordance with that advice the land levels would be raised and the floor levels of the dwellings would be between 0.8 and 1.7 metres above existing ground levels. The northern part of the site would be excavated to provide for storage of flood waters.
11. The National Planning Policy Framework (the Framework) requires the application of a sequential test to steer new development to areas with the

- lowest probability of flooding. The Planning Practice Guidance¹ advises that the area to apply the sequential test across will be defined by local circumstances relating to the catchment area for the type of development proposed.
12. The Council accepts that the housing policies in the LP are out-of-date. The emerging Central Lincolnshire Local Plan has been submitted for examination. In that draft Plan Morton is identified as a 'Medium Village' where no new housing allocations are proposed. Draft policy LP2 would permit developments of up to 9 dwellings although that figure could be increased to 25 as an exception where this is justified by local circumstances. Draft policy LP4 envisages that housing growth in Morton over the 20 year Plan period would be 15%, which would equate to about 72 dwellings. Thus the village is not identified for any significant level of growth in the emerging Local Plan and any additional housing development that does take place there would be modest in scale. The proposal would exceed the scale of development provided for in the emerging Plan. Although the Plan carries limited weight because of its status, I give some weight to those policies having regard to the level of flood risk in the village.
 13. I have taken into account the identified local need for the proposed affordable housing. However the scale of the proposed development is such that the sequential test should be applied over a wider area than just the parish of Morton. Although the village lies within an area of high flood risk the nearby urban area of Gainsborough is at lower risk of flooding. The Council has pointed out that there are other potential sites adjacent to the urban area which would be at lower risk of flooding. Whether or not those other sites would be suitable or available for the proposed development I find for the reasons given that the requirements of the sequential test as set out in the Framework and the Planning Practice Guidance have not been met.
 14. The proposed flood mitigation measures would safeguard against the dwellings being inundated but the external areas including the means of access would be under water in the event of a breach of the flood defences. Although the mitigation measures demonstrate a reasonable degree of safety for the future occupants this does not overcome the requirement imposed by the sequential test to direct development away from areas at high levels of flood risk.
 15. For the reasons given I conclude on this issue that the proposed development would be at an unacceptable level of flood risk. The proposal would not accord with saved policy STRAT 1(xii) of the LP which requires that land subject to flood risk is avoided.

Housing Land Supply and Planning Policies

16. The Central Lincolnshire Five Year Land Supply Report (May 2016) identifies a 5.33 year supply across West Lindsey, Lincoln City and North Kesteven. However this assessment is based on an Objectively Assessed Need which has not been subject to examination. The calculation of supply also relies heavily on sites proposed to be allocated in the emerging Plan which similarly have not been subject to examination. A Local Development Order which grants permission for 245 homes at Riverside Gateway in Gainsborough has been approved and there are other initiatives to accelerate housing delivery.

¹ ID: 7-033-20140306

However for the above reasons a five-year housing land supply has not been adequately demonstrated.

17. The proposal would not accord with saved policy STRAT 12 of the LP which restricts development outside settlement boundaries. However in the absence of the requisite five-year supply I can give only limited weight to that policy. The green field status of the land puts it at the lowest priority in bringing land forward for development as set out in saved policy STRAT 9 of the LP. The priority given by that saved policy to development of previously-developed land is consistent with the Framework. However in as far as that policy restricts new housing development it is a policy for the supply of housing and on this basis it carries limited weight.
18. Paragraph 49 of the Framework states that policies for the supply of housing should not be considered up-to-date where there is not a five-year supply. In such circumstances paragraph 14 makes provision for planning permission to be granted for sustainable development. This is however subject to consideration against other Framework policies². The requirements of paragraphs 100 to 102 of the Framework in terms of the sequential test are key requirements of the Framework and policies relating to flooding are referred to in footnote 9. Given that I have found conflict with the Framework with regard to its policy on land at risk of flooding paragraph 14 indicates that the proposed development should be restricted.

Unilateral Undertaking

19. A Unilateral Undertaking (UU) has been submitted which would secure the provision of affordable housing and contributions towards education provision. I have taken the UU into account in my decision but this does not alter my findings on the main issues.

Other Matters

20. The appellants have provided letters of support from local residents but the Parish Council objected as did a number of other local residents. This does not alter my conclusions.

Summary and Conclusion

21. In some respects the proposal would accord with the three dimensions of sustainable development. The village is in close proximity to the urban area of Gainsborough and it has good public transport connections. There are also local facilities in the form of a primary school, shop, doctor's surgery, church, village hall and two public houses. The site thus has a good level of accessibility by means other than the car. The occupiers of the proposed development would be likely to support local businesses and community facilities. Economic support for the local area would also arise from the construction of the development.
22. The proposal would provide needed housing in the context of an absence of the requisite five-year supply. The affordable housing would address local affordable housing need. The public open space and nature reserve would be of benefit socially and also environmentally by encouraging wildlife. These

² NPPF paragraph 14, second bullet point under 'decision-taking' and footnote 9

aspects of the proposal would accord with the social, economic and environmental dimensions of sustainable development.

23. On the other hand I have found that there would be harm to the character and appearance of the area although that harm would be limited. This weighs against the environmental dimension. I have also found that the proposed development would be at unacceptable risk of flooding. This is of overriding weight in terms of all three dimensions of sustainable development. For these reasons when considered in total the proposal would not be a sustainable form of development.

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

Nick Palmer

INSPECTOR